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Handbook on
Effective police responses
to violence against women

CRIMINAL JUSTICE HANDBOOK SERIES

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Handbook on Effective police responses to violence against women

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Preface

Violence against women is a violation of dignity, safety and human rights. The problem is immense, particularly domestic violence, but also violence against women in conflict situations and against victims of human trafficking. Yet it is often seen as a private matter, something that goes on behind closed doors. It is not: it is a crime. And the state has a responsibility to protect the victims.

Some countries lack laws that criminalize violence against women. Others have the laws, but fail to implement them. There is no excuse for this. The United Nations has produced *Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice*. These should be applied by all Member States.

Now the United Nations goes one step further with the publication of this *Handbook on Effective Responses to Violence against Women*. Designed for first-responders such as the police, it explains the issue, provides an overview of relevant norms and standards, and gives guidance on how to intervene. In particular, it focuses on how to investigate acts of violence against women—a process that requires considerable sensitivity.

This *Handbook* is dedicated to the memory of Jenni Viitala, Associate Expert at the UNODC Regional Centre for East Asia and the Pacific, who died suddenly from an illness, on 10 October 2009, while working for UNODC in Viet Nam on a project combating violence against women. She was 31 years old.

Her enthusiasm and her determination to make the world a better and safer place, particularly for vulnerable women, lives on in this *Handbook* that deals with a subject she felt so strongly about.



Antonio Maria Costa

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I. Introduction

Violence against women is a global issue of pandemic proportions, which has an impact on all societies. It violates the rights and fundamental freedoms of victims. Such violence can have a devastating effect on the lives of victims, their families and communities. Studies conducted on all five continents suggest that no society can consider itself immune from such violence. Violent practices that victimize women and girls transcend social, cultural, ethnic and religious boundaries.

At least one in every three women around the world has been beaten, coerced into sex or otherwise abused in her lifetime—with the abuser usually someone known to her (see the report of the Secretary-General entitled “In-depth study on all forms of violence against women”).¹

Violent practices against women take many different forms, which vary from country to country according to cultural, social and religious contexts and between different regions within countries. Equally, women do not form a homogenous group. Differences in ethnicity, social status, religion and age mean that women experience similar acts of violence differently. In particular, some groups of women are more vulnerable to violence and therefore require special treatment and support services.

The Declaration on the Elimination of Violence against Women of 1993 defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”²

The Declaration further specifies (article 2) that this definition encompasses, but is not limited to physical, sexual and psychological violence occurring in the family and in the general community, including battering, sexual abuse of children, dowry-related violence, rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women, forced prostitution and violence perpetrated or condoned by the State.

¹A/61/122/Add.1 and Add.1/Corr.1.

²General Assembly resolution 48/104, article 1.

A broader, more humanistic definition of violence attributed to the famous American civil rights leader Martin Luther King is that violence is anything that denies human dignity and leads to a sense of helplessness or hopelessness. In this definition, violence includes physical acts, use of words, social isolation and exclusion, and focuses on the direct impact on the victim.

Reports of the violence to which many women are daily subjected first emerged in the 1970s. Studies in Canada, the United States of America and some European countries showed that the home was not, as believed, a sanctuary and refuge, but instead was often the setting for violence and humiliation directed towards women and girls by male members of the household. In the most extreme cases, women were killed. The consequences began to be measured in terms of the impact on family members' physical and psychological health. While most victims were adult females, effects of violence could be found in all members of the family, especially in children who regularly witnessed repeated scenes of violence between parents.

Over the next years, a political agenda addressing violence against women began to be defined. The United Nations, and regional organizations such as the Organization of American States, made the issue of safeguarding women and ensuring that their rights were protected a fundamental issue to be addressed. That change in status led to the recognition that violence against women constituted a violation of human rights. By signing and ratifying United Nations treaties and conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women³ and the Declaration on the Elimination of Violence against Women, States thus undertook not only to protect women from violence but also to create mechanisms for prosecuting and punishing its perpetrators.

In recent years, state efforts to curb and eradicate violence against women have increased. In line with the Convention on the Elimination of All Forms of Discrimination against Women, many countries have adopted laws to deal specifically with violence against women, including domestic violence. Such legislative reforms are important in that they send a clear message to society by criminalizing violence against women. Now, it is no longer seen as a private matter and it will not be tolerated by society.

Other initiatives to strengthen the criminal justice system's response to violence against women have included the establishment of specialized police services to provide protection and assistance to women victims of violence; the creation of courts specializing in domestic violence; new civil and criminal remedies and measures to protect women; the training of law enforcement and judicial officers; new powers for police and the judiciary to respond to and protect women who are victims; the incorporation of a gender perspective in policy formulation on security; and specialized medical, psychological, social and legal support services for women in situations of violence.

³United Nations, *Treaty Series*, vol. 1249, No. 20378.

Experience has nevertheless shown that it is easier to change the law than to change practices and beliefs. In many countries, public silence and government inertia have ensured that rates of violence against women are often vastly underreported and that offenders go unpunished. Without clearly targeted efforts to alter institutional culture and practices and to mainstream the issue of gender in legislation and practice, most legal and political reforms have little positive impact. Legislative measures are often ineffectual unless accompanied by alterations in law enforcement standards, values and conduct, such as those set forth in the Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice (referred to here as the “Model Strategies”).⁴

This *Handbook* is designed to assist and guide police officers in the prevention of, and response to, violence against women. While it has global applications, it is designed primarily for use by police in transitional and developing countries where institutional means to protect women from violence have not yet been created or implemented. It addresses the rights of both victims and offenders.

Police are at the frontline of the criminal justice system. They are often called upon to intervene when an act of violence is in progress or shortly after it has occurred. Police work with victims, offenders, witnesses and various forms of evidence. Their attitude and response to all involved can have a dramatic impact on ensuing developments, including the prevention of future violent acts and the protection of victims. For example, in situations of recurring acts of domestic violence, the police response can help victims leave a violent relationship or, conversely, the victim, believing that nothing and no one can assist them, may remain in an abusive, violent setting.

Through enhanced practices, ensuring greater access to services such as shelters, counselling and legal assistance, improved presentation of evidence at trial and application of effective measures to protect victims and witnesses, police can play a significant role in bettering the lives of all women.

Police have long been under criticism for not doing enough to protect women from violence and for an often apathetic attitude towards the problem. However, police are only part of a much larger system: the cooperative, coordinated and effective involvement of courts, prisons, communities, non-governmental organizations (NGOs) and civil society is required to protect women against violence.

This *Handbook* is designed to assist police officers by familiarizing them with relevant international laws, norms and standards relating to violence against women and informing them about some promising practical approaches to effective police response to acts of violence against women.

It is hoped that police first-responders, investigators, supervisors and managers will benefit from the descriptions they will find in this *Handbook* of good strategies, procedures and practices that have helped police forces to enhance the safety and security of women in their communities.

⁴General Assembly resolution 52/86, annex.

When considering the transferability of “good practices”, it is useful to remember that even the most visionary and effective models typically require some adaptation to the local context and circumstances before they are adopted and implemented in a different jurisdiction.

For those who are involved in police training and development, a training curriculum has been developed to accompany this *Handbook*. This curriculum is available online on the United Nations Office on Drugs and Crime (UNODC) website.

While the focus of this *Handbook* is on domestic violence and violence in relationships (including rape), other forms of violence are also taken into account. It is hoped that this material will encourage an open discussion and examination of violence against women and what can be done to help eradicate this global epidemic.

This *Handbook* is divided into seven chapters, with two annexes. It starts by setting the context and describing various forms of violence against women and justice system responses to such acts. This section (chapter I.A) is intended to raise the general awareness of the reader to the various forms of violence against women. The *Handbook* then goes on to identify applicable international conventions and standards, and state obligations, including those applicable to the police. The bulk of the *Handbook* focuses on suggested police responses to violence against women, including the police role in prevention, investigation and protection of victims and witnesses. Issues of threat assessment and management are addressed, as is personal safety planning for victims and the role of support agencies and services in the protection of women. Prosecution is addressed, as is inter-agency collaboration and the need to coordinate services that help enhance the safety of women. The annexes provide resources to assist police in their investigations and their ongoing learning.

A. Setting the context

Violence against women and girls continues unabated in every continent, country and culture. It takes a devastating toll on women’s lives, on their families, and on society as a whole. Most societies prohibit such violence—yet the reality is that, too often, it is covered up or tacitly condoned.

Message of the Secretary-General on International Women’s Day, 8 March 2007

Violence directed towards women can, and does, take many forms and can have fatal consequences. It can be overt or subtle, verbal, psychological or physical, and can be directed towards any member of a community. Violence against women can take different forms, including sexual, exploitative, economic or religious/spiritual abuses. It may involve trafficking, forced genital mutilation or rape as a weapon of terror or ethnic cleansing, or be experienced as harassment. The violence may take place in the home, at work, or in public institutions such as prisons, and can occur across the lifespan of a woman. It cuts across all ages, cultures, social and faith groups.

Given that violence against women manifests itself in so many different forms, there is no one single, universally accepted definition to describe the phenomenon. The guiding principles used in the preparation of this *Handbook* are founded in the definition contained in articles 1 and 2 of the Declaration on the Elimination of Violence against Women (see above), which was reaffirmed in the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women.⁵

To counter all the forms of violence against women covered by the Declaration, multifaceted national plans of action must be developed and adopted. In 1997, General Assembly resolution 52/86 on crime prevention and criminal justice measures to eliminate violence against women contained an annex entitled “Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice”. That document advocates a set of comprehensive criminal justice strategies and measures to address all forms of violence against women. Police are but one element of such a comprehensive approach.

The economic cost of violence against women is considerable. For example, in the United States, a 2003 report by the Centers for Disease Control and Prevention estimated that the costs of intimate partner violence in the United States alone exceeded US\$5.8 billion per year: US\$4.1 billion were for direct medical and health-care services, while productivity losses accounted for nearly US\$1.8 billion.⁶

- Globally, at least one in three women and girls has been beaten or sexually abused in her lifetime⁷
- Half of all women who die a violent death do so at the hands of somebody they were in an intimate relationship with⁸
- Interpersonal violence is one of the leading causes of death for women 15-44 years of age⁹
- Annually, 600,000 to 800,000 persons are trafficked across international borders. Approximately 80 per cent of these are women and girls, and up to 50 per cent are minors¹⁰
- Studies have revealed increasing links between violence against women and the spread of HIV/AIDS

The consequences to victims can be devastating, both to primary victims and to secondary victims such as child witnesses. Women who experience violence suffer a

⁵*Report of the Fourth World Conference on Women*, Beijing, 4-15 September 1995 (United Nations publication, Sales No. E.96.IV.13), chap. 1, resolution 1, annexes I and II.

⁶United States of America, Department of Health and Human Services, Centers for Disease Control and Prevention, *Costs of Intimate Partner Violence against Women in the United States* (Atlanta, National Center for Injury Prevention and Control, 2003): As cited in United Nations Development Fund for Women, “Violence against women: facts and figures”, November 2007. Available from www.unifem.org/gender_issues/violence_against_women/facts_figures.php.

⁷*State of World Population 2000: Lives Together, Worlds Apart: Men and Women in a Time of Change* (United Nations publication, Sales No. E.00.III.H.1). Available from www.unfpa.org/swp/2000/english/index.html.

⁸Etienne G. Krug and others, eds., *World Report on Violence and Health* (Geneva, World Health Organization, 2002).

⁹World Health Organization, “Violence against women”, Fact sheet No. 239, November 2008. Available from www.who.int/mediacentre/factsheets/fs239/en.

¹⁰United States, Department of State, Office of the Under Secretary for Democracy and Global Affairs and Bureau of Public Affairs, *Trafficking in Persons Report: June 2007* (Washington, D.C., 2007).

range of health problems and their ability to earn a living and to participate in public life is diminished. Their children are significantly more at risk of health problems, poor school performance and behavioural disturbances.¹¹

Across many countries, some common themes emerge when women are victims:

(a) Domestic violence and sexual assault (including sexual assault of children) are significantly underreported to the criminal justice systems (and other systems such as health and child welfare);

(b) When cases are reported to the justice system, victims are not always treated with gender sensitivity, including in their access to legal aid and health care;

(c) Perpetrators of gender-based violence are often not reported to the authorities.

Physical violence

Physical violence directed towards women includes punches, kicks, slaps and other forms of physical assault, some of which leave marks such as scars, scratches, bruises and fractures. The severity of the injuries can vary. Some leave temporary marks, while others leave permanent ones, such as scars caused by burning. In some instances, the woman dies.

Such attacks can take place in the home, in the community, at work or even in state institutions.

The violence may involve hitting, kicking, scratching, biting, choking, beating, pulling hair, pushing, throttling or pinching. The attacker may also employ different types of weapon (knives, daggers, guns, etc.), objects (chairs, cups, glass bottles, belts and shoes, cooking utensils, broom handles, etc.) or instruments (such as spades, shovels, hammers, screwdrivers or wire). Attackers may cause burns using substances such as alcohol, kerosene, acid, oil or hot water. Women can be forced to take unnecessary medicines, alcoholic beverages, drugs or other substances.

Women of all ages can be victims of gender-based violence. This includes infants and children, young girls, pregnant and nursing mothers, and the elderly. No woman is immune from the threat of violence.

Domestic violence/violence in relationships/intimate partner violence/spousal abuse

Domestic violence includes physical, psychological and sexual attacks against women in the home or within a family context. It can include violence towards a woman by a family member other than the husband (such as a son, mother-in-law or other relative) and also violence perpetrated by the husband, which is sometimes referred to as “spousal abuse”.

¹¹*Ending Violence Against Women: From Words to Action. Study of the Secretary-General* (United Nations publication, Sales No. E.06.IV.8).

Within the family, spousal abuse can take the form of exploiting the woman sexually, withholding money, shelter, food or medical care, or preventing the woman from working or controlling the form of work she engages in. The violence may include using the woman's religious or spiritual beliefs to manipulate, dominate or control her. It may include preventing her from practising her spiritual or religious beliefs, or ridiculing those beliefs.¹²

In spousal abuse, violence against women is about the abusive use of power and control, with the violence sometimes being directed not only towards a woman in an intimate relationship, but also towards her children, pets, relatives, friends, family and other supporters.

It is often difficult for a woman to report violence, pursue legal action or end the relationship because of:

- Fear for her safety or that of her children
- Fear that her children will be apprehended or taken away by the husband if it is alleged that she is in some way an unfit mother
- Influence of her extended family or children
- Emotional attachment and loyalty to the abuser
- Low self-esteem and self-blame
- Economic dependency on the abuser
- Religious values or pressure from the cultural community
- For immigrant women, fear of deportation
- Social isolation and lack of a support system
- Authorities denying, minimizing or rationalizing the severity of the violence
- Lack of legal information about victims' rights.¹³

Sexual abuse and rape

Sexual abuse includes a range of sexually, psychologically and physically coercive acts used against women of all ages—from infancy to old age—and includes all forms of non-consensual sex, sexual harassment and sexual exploitation. It encompasses rape, forcing somebody to participate in unwanted, unsafe or degrading sexual activity, and forced prostitution.

Sexual violence can occur at the hands of an intimate partner, including a husband, or be perpetrated by a relative, friend, work colleague, acquaintance or stranger.

According to the 2006 in-depth study of the Secretary-General, estimates of the prevalence of sexual violence by non-partners are difficult to establish, because in

¹²Canada, Department of Justice, "Spousal abuse fact sheet from the Department of Justice Canada", modified on 31 July 2009. Available from www.justice.gc.ca/eng/pi/fv-vf/facts-info/sa-vc.html (accessed 30 September 2009).

¹³Canada, British Columbia, Ministry of Public Safety and Solicitor General, "Violence against women in relationships: information bulletin for police", 2006. Available from www.pssg.gov.bc.ca/victim_services.

many societies, sexual violence remains an issue of deep shame for women and often for their families. Statistics on rape extracted from police records, for example, are notoriously unreliable because of significant underreporting.¹⁴ It is estimated that during her lifetime, one in five women in the world will become a victim of rape or attempted rape.¹⁵

In many societies, women who experience sexual violence do not report the crime for fear of shame, exclusion or isolation, fear of reprisal or fear that their report will not be taken seriously or acted upon by justice officials. For countless victims, their trauma is never properly addressed and the physical and emotional scars receive no treatment. In some contexts, cultures and States, the victim may be held responsible for the violence suffered and may even suffer further violence as a result. In some cultures, the victim is killed by a male relative as a matter of “honour”. In others, the law does not recognize rape by a husband as a crime.

Violence against women in conflict, post-conflict and transitional societies

Women face a tremendous risk of targeted violence in conflict, post-conflict and transitional States. Women may experience victimization in their home country during or after a conflict, in their homes or as internally displaced persons or as refugees in another.

At times, the risk of violence may lessen in a post-conflict or transitional period, but protections offered to women by the State may still be absent or woefully inadequate. Access to social services, protection, legal remedies, medical resources and places of refuge is often non-existent for many victims. Weak, inadequate or non-existent laws may create a culture of impunity for offenders.

According to the Secretary-General’s 2006 study, *Ending Violence against Women: From Words to Action* (page 53):

“During armed conflict, women experience all forms of physical, sexual and psychological violence perpetrated by both State and non-State actors. These forms include murder, unlawful killings, torture and other cruel, inhuman or degrading treatment or punishment, abductions, maiming and mutilation, forced recruitment of women combatants, rape, sexual slavery, sexual exploitation, involuntary disappearance, arbitrary detention, forced marriage, forced prostitution, forced abortion, forced pregnancy and forced sterilization.

“Sexual violence has been used during armed conflict for many different reasons, including as a form of torture, to inflict injury, to extract information, to degrade and intimidate and to destroy communities. Rape of women has been used to humiliate opponents, to drive communities and groups off land and to wilfully spread HIV.”

In some conflicts, rape has been used as a tool for ethnic cleansing.

¹⁴*Ending Violence against Women*, p. 48.

¹⁵United Nations Development Fund for Women, “Violence against women: facts and figures”, November 2007. Available from www.unifem.org/gender_issues/violence_against_women/facts_figures.php.

It is estimated that between 250,000 and 500,000 women in Rwanda were raped during the 1994 genocide, that between 20,000 and 50,000 women were raped in Bosnia during the conflict in the early 1990s, and around 200,000 women and girls were raped during the armed conflict in Bangladesh in 1971.¹⁶

In some States experiencing conflict or transition, there have been reports of international peacekeepers engaging in various forms of violence against women, including instances of rape and child prostitution.

In post-conflict and transitional societies, police face many challenges in protecting women from violence and in responding effectively to such acts. Relevant legislation may be ineffectual or non-existent, resources may be scarce, a culture of impunity may be prevalent and support agencies and services to enhance the protection of women may be severely lacking.

GOOD PRACTICE EXAMPLES

To help ensure that the rights of women are protected by peacekeepers and in order to promote women to visible positions of strength and authority, the United Nations Development Fund for Women has deployed an all-female peacekeeping force in Liberia. Consisting of 100 highly trained women police officers from India, this force helps bring Liberian women forward with complaints of victimization and helps to provide access to needed services, while the women officers serve as positive role models to encourage other women to join the Liberian police service. A local goal is to have women account for 20 per cent of the police force, all with high-school diplomas, and efforts are under way to attain this goal.

The programme builds on Security Council resolution 1325 (2000), in which the Council, expressing concern that civilians, particularly women and children, accounted for the vast majority of those adversely affected by armed conflict, urged Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management and resolution of conflict, called on all actors, when negotiating and implementing peace agreements, to adopt a gender perspective, and called on all parties to armed conflict to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict.

In Rwanda, the United Nations Trust Fund in Support of Actions to Eliminate Violence against Women supported a project to train female ex-combatants—many of whom had been victims of sexual violence during the armed conflict—on women's human rights and violence against women. The training provided participants with a safe space to speak about their experiences of violence and trauma. It also empowered the women to play a leading role in the fight against sexual violence and HIV/AIDS in their communities.

Trafficking of women and young girls¹⁷

In the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention on Transnational Organized Crime,¹⁸ “trafficking in persons” is defined as the “recruitment,

¹⁶NGO Working Group on Women, Peace and Security, “Fact sheet on women and armed conflict”, 23 October 2002. Available from www.iwgc.org/212.html.

¹⁷While this *Handbook* is not meant to deal with the problems of human trafficking in detail, readers can refer to the *Toolkit to Combat Trafficking in Persons* (United Nations publication, Sales No. E.08.V.14). Available from www.unodc.org/documents/human-trafficking/HT_Toolkit08_English.pdf.

¹⁸United Nations, *Treaty Series*, vol. 2237, No. 39574.

transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation” (article 3 (a)). The victimization of women and girl children includes sexual exploitation, forced labour or services, or practices similar to slavery, servitude or the removal of organs.

As defined in the Trafficking in Persons Protocol, it is the element of coerced consent (though the issue of “consent” is not relevant when referring to trafficked children) that differentiates the act of trafficking from the smuggling of migrants. The smuggling of migrants, while often undertaken in dangerous or degrading conditions, involves migrants who have consented to the smuggling. Trafficking victims, on the other hand, have either never consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers.

Smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims are taken to another State or only moved from one place to another within the same country.¹⁹

In all cases of trafficking, children are victims. This status is based on international law and conventions. However, in many countries, trafficked children are arrested, detained and treated as criminals. They are often not afforded support, care, education or medical attention while held in detention and are sometimes quickly deported.

Despite the best efforts of nations, human trafficking remains the third most profitable transnational criminal activity, after drug smuggling and illegal trading in firearms.²⁰ A 2004 United Nations report suggests that annual international profits from trafficking in human beings lie between US\$7 billion and 10 billion. The International Organization for Migration estimates that nearly one third of global human trafficking involves women and children from South-East Asia. About 60 per cent of this occurs within the region of the Association of Southeast Asian Nations itself and about 40 per cent involves the rest of the world.²¹ It is believed that a great many of the people, including children, who are trafficked are eventually forced to engage in some form of commercial sexual exploitation.

Children, especially girls, are trafficked and exploited for a number of reasons, including:

(a) A culture of impunity. In some regions and countries, there exists a culture of social, political and legal impunity for exploiters, which encourages the demand for sexually exploitative services such as child prostitution;

¹⁹A leaflet entitled “Trafficking in persons” is available from www.unodc.org/documents/human-trafficking/HtleafletA5EnglishupdatedAugust09.pdf.

²⁰Cheah Wuiling, “Assessing criminal justice and human rights models in the fight against sex trafficking: a case study of the ASEAN region”, *Essex Human Rights Review*, vol. 3, No. 1 (2006), pp. 46-63.

²¹International Organization for Migration, *Combating Trafficking in South East Asia: A Review of Policy and Programme Responses*, IOM Migration Research Series No. 2, (2000).

(b) Client demand for child prostitution;

(c) Discriminatory attitudes and client prejudices, including preferences for specific ages, genders, race, ethnicity, skin colour/tone and social status, contribute to a demand for sexual exploitation by defining a person (child) as “exploitable” in the eyes of some. This discrimination makes some victims, especially young girls, invisible and outside the normal scope of state protection;

(d) Armed conflict and political instability tend to help drive children into the grasp of traffickers who lure victims with the promise of a better life elsewhere. In reality, the victims are moved to a new location where they are victimized and exploited. In some places, forced prostitution and rape are used as political tools of terror, subjugation and humiliation. Victims may lose their sense of self-respect and self-worth, be ostracized by family and community and drift towards prostitution as the only viable means of survival and shelter.

The police response to trafficking in women and children is complicated in some instances by the involvement of transnational organized criminal groups, the absence or weakness of relevant laws and the ineffectual state response to the problem. In many cases, victims are afraid to cooperate with the police for fear of reprisal from traffickers or for fear of being returned home, where they could face alienation, abuse or further violence. In some places, police may not even be fully aware of the level of trafficking taking place or be ill-equipped to counter it.

Violence perpetrated by persons in positions of authority or by the State

The State—either through its agents or public policy—can perpetrate physical, sexual and psychological violence against women.²² This may take place in police stations, jails, prisons,²³ border posts, health-care centres or social assistance offices, and may take the form of rape, sexual harassment or some other form of degradation.

According to the study of the Secretary-General (p. 52):

“A State may also perpetrate violence against women through its laws and policies. Examples of such laws and policies include those that criminalize women’s consensual sexual behaviour as a means to control women; policies on forced sterilization, forced pregnancy and forced abortion; policies on protective custody of women that effectively imprisons them; and other laws and policies, including policies on virginity testing and sanctioning forced marriages, that fail to recognize women’s autonomy and agency and legitimize male control over women. States may also condone violence against women through inadequate laws or through ineffective implementation of laws, effectively allowing perpetrators of violence against women impunity for their acts.”

²²Ending Violence against Women ... , op. cit., p. 51.

²³UNODC has recently published a Handbook for Prison Managers and Policymakers on Women and Imprisonment (United Nations publication, Sales No. E.08.IV.4). Available from www.unodc.org/documents/justice-and-prison-reform/women-and-imprisonment.pdf.

Where women are deprived of their liberty they are particularly vulnerable. Acts of violence against women held in custody are reported in all countries around the world.

Women face the risk of violence at the hands of the State, or persons in positions of authority, while placed in custodial settings such as jails, prisons, mental health facilities, immigration detention centres, welfare facilities and displaced person and refugee camps. In such places, violence can take the form of overt acts, such as rape, harassment or sexual humiliation, or occur when there is inappropriate surveillance in showers or toilet facilities, unnecessary strip searches or the presence of male staff at those times and locations.

Harmful traditional practices

In many regions of the world there are still cultures that engage in harmful traditional practices involving women and girls. These may be based on tradition or religion and are often locally viewed as acceptable cultural practices. They include honour killings, dowry murders, female genital mutilation, forced virginity testing, marriage, widowhood rituals, selected abortion of female fetuses, preferential feeding and care of male infants and coming-of-age rituals for girls that include branding, burning, tattooing or scarring.

Addressing such harmful traditional practices, which often have significant cultural and religious roots, requires great sensitivity. However, States are reminded that the *Declaration on the Elimination of Violence against Women* calls upon all Governments to condemn all acts of violence against women and not to invoke custom, tradition or religious considerations to avoid their obligations to protect women from violence (article 4).

The police response to harmful traditional practices is challenged in some States where laws fail to criminalize such practices or offer poor protection to women. At times police tolerate or are sometimes complicit in such practices. In some contexts where immigrant communities have brought harmful traditional practices to their new home country, police may be unaware of what is happening or face language and community barriers to the investigation of crimes and the protection of victims and witnesses.

Honour crimes

Honour crimes, including killing, are one of history's oldest forms of gender-based violence. It assumes that a woman's behaviour casts a reflection on the family and the community. If women fall in love, seek a divorce even from a violent or abusive husband or enter into a relationship outside their marriage, they are seen as violating the honour of the family and perhaps also that of the larger community. When a woman engages in these acts she can sometimes be subject to violence at the hands of her own family members, including her husband, brothers, cousins, uncles or father. In some cultures, a family will murder a daughter if it is unable to provide a suitable dowry, which could shame and dishonour them in the eyes of the local community.

Honour killing is the most intimate of all crimes since it is those who, being tied to the woman through love or affection, are required to carry out her execution and kill her in cold blood. In some communities, a father, brother or cousin will publicly take pride in a murder committed in order to preserve the “honour” of a family. In some such cases, local justice officials may side with the family and take no formal action to prevent similar deaths.

Honour crimes can also include the violent disfiguration of a woman, most often of her face. This is sometimes done by throwing acid, boiling oil or water at the woman. Such crimes occur for reasons as varied as family feuds, land disputes, refusal of sex, refusal of a romantic relationship, inability to meet dowry demands, marital disputes, rejection of a marriage proposal, political enmity and so on. Besides the immense physical pain of acid attacks, the victims also suffer from a lifetime of stigmatization, resulting in loss of self-esteem and an inability to study or work, living in shame, hiding the disfigurement with a veil or retreating into social isolation.

Female genital mutilation

One of the cruellest forms of controlling the sexuality of women and girls is female genital mutilation. This includes all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs.²⁴ The oft-stated reasons behind such mutilation are to control a woman’s sexuality in order to be able to prove and safeguard her virginity, but it is also used in some societies to reduce a woman’s sexual desire and protect marital faithfulness.²⁵

Female genital mutilation can at worst be fatal, can give rise to haemorrhage, severe pain, reproductive and sexual health risks and the risk of infection from sexually transmitted diseases and HIV/AIDS, and can cause severe psychological trauma. The procedure is often conducted in dark, insanitary conditions, sometimes by elderly women with poor eyesight. In poorer communities, tools such as a piece of broken glass are used. When done to infants whose genitalia are not yet developed, procedural mistakes can be made as aspects of the genitalia cannot yet be differentiated.

In some parts of the world where female genital mutilation is practiced, it is locally referred to as “female circumcision” and viewed as an essential practice if the girl is to eventually marry and be accepted into the community as an adult.

Where laws prohibit female genital mutilation, police are expected to conduct thorough investigations, gather evidence, protect victims and witnesses, and submit the results of their investigation to the courts.

²⁴World Health Organization, “Female genital mutilation”, Fact sheet No. 241, May 2008. Available from www.who.int/mediacentre/factsheets/fs241/en/.

²⁵Anika Rahman and Nahid Toubia, *Female Genital Mutilation: A Guide to Laws and Policies Worldwide* (London, Zed Books, 2000).

Widowhood rituals

The final type of harmful traditional practice to be examined is widowhood rituals. In some cultures, a woman may be expected, and sometimes forced, to commit a ritualistic form of suicide when her husband dies. In others, the new widow is taken in by the closest male relative to her deceased husband as a wife. There are a few cultures where a woman is banished from her home and village upon the death of her husband, leaving her without support or shelter. In each of these instances, a woman's right of choice over her destiny is removed—a fundamental violation of human rights.

Again, where the laws prohibit such practices, the police are expected to conduct a thorough investigation. Criminalization of such practices and an effective police response can help prevent future victimization.

Crimes against young girls and children

By virtue of their dependency on others and lack of development, children and young girls are particularly vulnerable to violence, abuse and exploitation. This includes rape, various forms of sexual abuse, commercial sexual exploitation and trafficking. These crimes are often shielded from public view and hidden in homes, brothels, massage parlours and guesthouses.

Some children face repeated sexual abuse, often over a period of years, at the hands of a close relative such as a father, brother or uncle. Feeling shame and fearing some form of threatened reprisal if they speak out, many such children experience incredible emotional trauma that can last a lifetime.

Children forced to work as prostitutes may find themselves trafficked to a continent far away, never to see their home or family again. They face a high risk of physical violence and an increased risk of exposure to HIV/AIDS.

Because of their small hands and perceived ability to do precision work, girl children are often forced to work at ages as young as five or six. This work is sometimes done in exchange only for food and shelter, and the victims may be subjected to dirty, unsafe and brutal working conditions. In some less developed countries, poor families sell their children into such slave-like conditions as a means of survival for the larger family.

Protection for children in these circumstances is not always provided. Police and other justice officials may be involved through some sort of corrupt practice in the continuation of the abuse, or they may view the children as “problems” or criminals and thus not act to ensure their protection from violence. While most States have laws prohibiting slavery, child prostitution and child labour, some lack the resources to take meaningful action.

Elder abuse

Similar to children, many elderly women are dependent on others for their care, shelter, feeding and protection. At times, this can lead to abuse. For some, they find their voices are either not heard or not taken seriously. Those who suffer from some form of illness or mental dementia have even less of a voice and are thus even more vulnerable.

Elderly women sometimes have physical mobility problems and cannot seek outside assistance or protection on their own.

Some elderly women have lost control of their homes and finances to those who seek to control them. Some are denied required medical attention, food or shelter. Many are physically beaten, while others suffer sexual abuse.

Commercial sexual exploitation of women and children

Different from rape and sexual abuse, commercial sexual exploitation involves crimes committed for a profit. This can include forced acts such as prostitution or participation in the creation of pornography. The woman or child participates out of fear—fear of physical abuse if she refuses, denial of shelter or food, or, in some cases, fear of being murdered. Women who are trafficked for purposes of commercial sexual exploitation often fear arrest, imprisonment or deportation if they refuse to cooperate.

An effective police response to commercial sexual exploitation of women is often obstructed by the victims themselves, who are afraid to come forward or cooperate or are fearful of reprisals at the hands of their abusers. Some police are apathetic about such victimization and, in some contexts, the laws that foresee a police response are weak or ineffectual.

B. Particularly vulnerable women

Some organizations, such as the United Nations Children's Fund, have sought to define specific groups of children as being in need of special protection. This includes street children, the homeless, those displaced or made refugees by conflict or war, children who are forced to work, persons who are detained or imprisoned, victims of trafficking or sexual exploitation, minorities and the handicapped, to name but a few.

Within the specific context of violence against women, there are additional groups of women who are sometimes overlooked, including immigrants (legal and illegal), lesbians and transgendered persons, and sex trade workers. What each has in common with the other is some level of increased vulnerability to abuse and violence.

Immigrant women are often confronted with barriers that limit their access to services, such as language assistance, needed information, culturally sensitive services and individual shelters. They may face social isolation and in most cases are dependent on their abuser in one way or another. They may be ignorant of their rights and

what assistance and protection may be offered locally. Thus they are often unable or reluctant to seek outside, official assistance. Sometimes this is exacerbated by a traditional fear or mistrust of justice officials in their home country or they are fearful of imprisonment or deportation. It is therefore vital that immigrant women victims have access to special services and protection as survivors of violence and are provided with equal treatment as victims of violence.

In each instance, the police need to ensure that the rights of all are protected, including protection from all forms of violence.

C. Life phases of violence against women

Throughout the span of their lives, including before they are born, women and girls face a wide variety of forms of violence.²⁶ Some of it subtle or hidden, some very overt. In each form, a woman is a victim, and each type requires some specialized response and prevention measure.

<i>Life phases</i>	<i>Type of violence</i>
Pre-birth	Battering during pregnancy Denial of medical services or food Coerced pregnancy (rape during war or riots or caste rapes) Sex-selective abortion (e.g. abortion of a female foetus)
Infancy	Differential access to food and medical care for girl infants (death from malnutrition) Emotional and physical abuse of females Female infanticide Trafficking
Childhood	Child marriages Commercial sexual exploitation Differential access to food, medical care and education Female genital mutilation and other forms of harmful traditional practice Honour killings Incest Sexual abuse Trafficking
Adolescence	Acid crimes Dating and courtship violence Female genital mutilation and other forms of harmful traditional practice

²⁶See Lori L. Heise, Jacqueline Pitanguy and Adrienne Germain, *Violence against Women: The Hidden Health Burden*, World Bank Discussion Paper No. 255 (Washington, D.C., World Bank, 1994).

<i>Life phases</i>	<i>Type of violence</i>
Adolescence (<i>continued</i>)	<ul style="list-style-type: none"> Forced marriage Commercial sexual exploitation Honour killings Rape Sexual abuse in the workplace or public places Sexual harassment Trafficking
Reproductive/adult period	<ul style="list-style-type: none"> Abuse of women by intimate partners Abuse of women by strangers Acid crimes Dowry harassment and murders Economic abuse Femicide Forced marriage Commercial sexual exploitation Honour killings and other forms of harmful traditional practices Marital rape Partner and pre-partner homicide Psychological abuse Rape Sexual abuse in the workplace Sexual harassment Stalking Trafficking
Old age	<ul style="list-style-type: none"> Abuse of widows and elder women Denial of shelter or food Loss of economic control Widowhood rituals Destruction of personal effects Forced homelessness
Cross-cutting ages	<ul style="list-style-type: none"> Emotional and physical abuse of females Female infanticide Female genital mutilation and other forms of harmful traditional practice Commercial sexual exploitation Honour killings Psychological abuse Rape Sexual harassment and abuse

All these forms of abuse can be addressed by the State through criminalization of such acts. This then enables an official police response. However, police alone cannot address each of the forms of violence listed above. Rather, a comprehensive, coordinated and multifaceted approach is required. Such an approach requires the development and implementation of public policy, support for all the agencies involved and the involvement of civil society, NGOs, religious groups and leaders, ordinary citizens and, most of all, women.

A state response to violence against women that places the bulk of the burden on the police alone is doomed to failure. Rather, a holistic approach needs to be adopted, including the creation of a culture that does not tolerate violence against women in any form.

D. Common misconceptions about domestic violence

In an effort to dispel common misconceptions about domestic violence, one African NGO has compiled and published the following for regional use: ²⁷

- *Some women provoke domestic violence or think it is an expression of love and like being abused.*

Researchers have found that many abused women suffer in silence, endure physical abuse and remain in the relationship for a variety of reasons, including that they:

Have no place to go

Are financially dependent on their abusive partner

Feel it is better for the children

Are afraid of social stigma

- *Alcohol and drugs are the main causes of domestic violence.*

Although alcohol appears to be involved in about 50 per cent of incidents of domestic violence, offenders have also often assaulted their partners when sober. Abuse of alcohol is a risk factor that contributes to spousal abuse by lowering inhibitions, but alcohol and drugs do not cause domestic violence.

- *Physical abuse is the most serious form of domestic violence.*

Research indicates that domestic violence may be physical, emotional/psychological, economical and sexual in nature. Most victims confess that emotional/psychological abuse affects them more seriously and deeply than physical abuse.

²⁷See the website of the project It's time: African women join hands against domestic violence. Publication (2007) available from www.itstimeafrica.org.

- *Men who abuse their partners are usually mentally ill.*
Clinical studies on men who abuse their partners do not support this view. The majority of wife abusers are not suffering from mental illness: most seem to be quite ordinary men.
- *Most abusers are unsuccessful men who are violent in all their relationships with other people.*
Research indicates that, like abused women, abusing men come from all walks of life.
- *Abuse is acceptable in certain cultures.*
Violence is never an acceptable method of solving conflict. Spouses do not have the right to physically assault one another, regardless of the provocation.
- *Domestic disputes are a private affair and should be settled between couples rather than involving the police, health professionals or social workers.*
Victims of domestic violence have often experienced extreme levels of physical violence, emotional abuse and trauma for months or years before they seek help. Victims tend to report the abuse to the police, health professionals or social workers only after they have tried unsuccessfully to resolve their disputes in private.
- *Victims of domestic violence could leave the violent relationship if they really wanted to.*
Given their religious and/or cultural beliefs, victims of domestic violence may believe that abuse is part of every marriage. If the victim has grown up in an environment where domestic violence was condoned, it is more likely that she will stay in the abusive relationship. Furthermore, abused women are usually kept from easily leaving home by a number of factors. These may include fear of reprisals, social isolation, financial dependence, social stigma, emotional dependence and poor self-esteem.
- *Children are generally not affected by domestic violence and it is better to have a father at home even if he is violent.*
Children living in an abusive home are more likely to be abused themselves, are at risk of injury during a violent incident and are also at risk of developing trauma symptoms. Research has shown that children from violent homes have higher risks of alcohol and/or drug abuse and juvenile delinquency. They may also learn that when people abuse others they do not get into trouble.

E. Justice system responses and victim protection

The justice system involves many different actors, including the executive and legislative branches of government, the police, prosecution, judiciary, prisons and probation and parole officers, as well as civil society and NGOs in some circumstances.

The justice system—the relationship between actors, their respective roles, responsibilities, power and authority—varies from one country to another. Different justice systems provide differing forms of protection to women subjected to violence. Some will have well developed laws and systems to respond and protect women, while others may be quite weak or ineffective in their responses.

In responding to acts of violence against women, and depending on the local context, actors within the justice system have many options, including diversion, arrest, restraining orders, peace bonds, detention and imprisonment, and orders restricting an offender's actions while he is on probation or parole. Legal responses and protections may be criminal or civil in nature.

In some States, police have the power and authority to enter a home and speak to women they believe may be victims of violence, even if male occupants object. The police may further have the authority to seize weapons, force a batterer to leave the home or arrest him even without the support of the victim. In some jurisdictions, the police automatically charge any person suspected of having assaulted or abused a woman. Such measures have been enacted to further safeguard women who fear reprisal and further victimization.

Specialized teams within justice agencies can include dedicated and trained teams of police investigators and separate courts. Counselling, safe houses and shelter may be provided to some victims and rehabilitative measures may be available to some offenders. In some countries, specialized police teams exist that consist primarily of women officers who have undergone specific training.

However, in some societies, the criminal justice system is often unresponsive to the topic of gender, especially as it relates to a gender-sensitive approach to women who are victims of crime, women who are in conflict with the law and women as criminal justice professionals. In some contexts, women may not be viewed as “persons” with a right to equality under the law. The issue of gender and the protection of women may not yet be mainstreamed into public policy discussions and development.

Paragraph 7 of the Model Strategies (see the introduction above) urges States to review, evaluate and revise their criminal procedure, as appropriate, in order to ensure that:

(a) The police have, with judicial authorization where required by national law, adequate powers to enter premises and conduct arrests in cases of violence against women, including confiscation of weapons;

(b) The primary responsibility for initiating prosecutions lies with prosecution authorities and does not rest with women subjected to violence;

(c) Women subjected to violence have an opportunity to testify in court proceedings equal to that of other witnesses and that measures are available to facilitate such testimony and to protect their privacy;

(d) Rules and principles of defence do not discriminate against women, and such defences as honour or provocation do not allow perpetrators of violence against women to escape all criminal responsibility;

(e) Perpetrators who commit acts of violence against women while voluntarily under the influence of alcohol or drugs are not absolved of all criminal or other responsibility;

(f) Evidence of prior acts of violence, abuse, stalking and exploitation by the perpetrator is considered during court proceedings, in accordance with the principles of national criminal law;

(g) Courts, subject to the constitution of their State, have the authority to issue protection and restraining orders in cases of violence against women, including removal of the perpetrator from the domicile, prohibiting further contact with the victim and other affected parties, inside and outside the domicile, and to impose penalties for breaches of these orders;

(h) Measures can be taken when necessary to ensure the safety of victims and their families and to protect them from intimidation and retaliation;

(i) Safety risks are taken into account in decisions concerning non- or quasi-custodial sentences, the granting of bail, conditional release, parole or probation.

While some States have adopted some or all of these suggested measures in varying forms, many have not yet taken specific action.

Generally, legal systems around the world fit one of the following broad descriptions:

(a) *Common law*. Common law is a body of law that is based on customs and general principles and embodied in case law, and that serves as precedent or is applied to situations not covered by statute;

(b) *Civil law*. Civil law is the body of laws established by a State or nation for its own regulation;

(c) *Customary law*. Customary laws arise through customary practices and are enforced by community processes rather than formal institutions. They consist of traditional rights and obligations that are binding on distinct societies, cultures or communities, and in case of violation of those traditional rights the relevant group of society applies appropriate sanctions that are accepted. States that follow customary or religious laws are sometimes under criticism for not having adequate laws to protect women who are victims of violence or for encouraging violence against women;

(d) *Religious law*. Religious law emanates from religious texts and in most cases purports to cover all aspects of law;

(e) *Mixed or parallel law*. Mixed legal systems in the classical sense are systems in which elements from more than one traditional legal source co-exist or intermingle.²⁸

In many, but not most States, a woman who reports being a victim of violence can expect a sensitive, thorough response from the police. Following an investigation and collection of evidence (including interviews of the victim and witnesses and interrogation of the alleged offender), they may arrest the suspect. The police may or may not charge the suspect.

²⁸Esin Örüçü, "Public law in mixed legal systems and public law as a 'mixed system'", *Electronic Journal of Comparative Law*, vol. 5, No. 2 (May 2001). Available from www.ejcl.org/52/art52-2.html.

The suspect may be detained, or released on some form of bail, bond or surety. This may, or may not, have conditions attached. Conditions can include a no-contact order with the victim or, in cases of domestic violence, an order to stay away from the home. Other conditions can include abstinence from alcohol or other drugs and non-possession of firearms or other weapons.

Depending on the State, the police may continue their investigation to identify and assess the level of risk faced by the victim and to determine whether additional measures are required to protect her from continued victimization. Measures can include the creation of a personal safety plan, help and counselling from specialized victim service workers, movement to a specialized shelter or, in extreme cases, relocation out of the community.

Depending on the State, prosecutors may have sole authority to approve, or drop, a charge. It may be public policy that all cases of domestic violence proceed to trial, even if the victim is reluctant or states that she will not testify. In several States, neither the police nor the prosecution is allowed to take into account the history or “personal character” of the victim in the decision to proceed with charges.

Alleged offenders who are charged may appear before the judiciary or have their case diverted, with some form of alternative dispute resolution being applied. Some countries have dedicated teams of prosecutors and courts assigned to crimes such as domestic violence.

Persons appearing before the judiciary may be held pending trial or be released on some form of bail, bond or surety. Again, this may or may not have conditions attached that are designed to protect the women involved.

At trial, police are generally expected to present all the evidence collected during their investigation. Victims and witnesses may be expected to testify. Some States offer protection to victims during the trial that can include specialized victim service assistance, presenting their evidence from behind a curtain (to help protect confidentiality and privacy and to shield them from their attacker) or giving their evidence by video. In some countries, victims are allowed to read statements into the court record that describe the impact of the attack on themselves and their children. Judges can take this information into account in imposing sentence and issuing conditions.

Before and at trial there may be special measures to protect both the victim and witnesses from threats, intimidation and retaliation. Threats may come from the attacker, his family or friends. In some contexts, threats can also come from within the community as attempts are made to stop the woman from speaking out about what happened.

If convicted, an offender may be incarcerated or else released on some form of community service. Release conditions can include further restrictions and the requirement to seek counselling. Imprisoned offenders may have access to counselling and other services while in custody. Many countries do not, however, have the capacity to provide such specialized services.

A few countries have a system in place to notify victims before their attacker is released from prison. Some allow the victim to be heard if the attacker applies for parole or early release.

The Model Strategies call upon States to develop and undertake strategies to protect women from violence. These actions take a holistic approach to the justice system, asking all actors to engage in measures to enhance the safety and security of women, including addressing the causes and consequences of the violence.

GOOD PRACTICE EXAMPLE

Critical elements of an effective response to domestic violence

The Government of British Columbia (Canada), in consultation with several local NGOs,^a a framework for a comprehensive, coordinated and specialized approach to addressing domestic violence. Designed to meet both urban and rural needs, and those of New Canadians and other vulnerable groups, the framework comprises eight components for an effective, inclusive response to domestic violence:

1. *Managing risk and victim safety*, including a comprehensive, coordinated approach to risk and safety assessment and victim safety planning.
2. *Offender accountability*, including appropriate and consistent sentencing, consistent enforcement of protection orders and accessible treatment for abusers.
3. *Specialized victim support*, including comprehensive, proactive and timely support with outreach and access for marginalized groups.
4. *Information-sharing*, including consistent, timely information-sharing between agencies and with the victim, with particular emphasis on high-risk cases.
5. *Coordination*, including coordination and collaboration at all levels among all relevant sectors, senior-level leadership and resources to adequately support a coordinated approach
6. *Domestic violence policy*, including adherence to a comprehensive justice system policy that applies to all justice system components and requires a consistent and informed approach to charging, prosecution and offender accountability.
7. *Use of specialized expertise*, including specialized approaches such as dedicated justice system personnel and dedicated court time, adequately funded specialized training and, if they are considered an option, a carefully considered and principled approach to domestic violence courts.
8. *Monitoring and evaluation*, including monitoring and evaluation as an integral part of all the foregoing critical components and a systematic, comprehensive approach to collection, analysis and publication of statistics across all justice system components.^b

^aIncluding the Ending Violence Association of British Columbia, the British Columbia Yukon Society of Transition Houses and the British Columbia Institute against Family Violence.

^bCanada, British Columbia, Critical Components Project Team, Keeping Women Safe: Eight Critical Components of an Effective Justice Response to Domestic Violence (Victoria, 2008).



II. International norms and standards

Human rights are claims that every individual has on the society in which he or she lives. They are universal and inalienable, belonging to every human in every society irrespective of geography, history, subculture, ideology, politics, economic system or stage of development.

Fundamental human rights do not depend on gender, race, class or status, although often, in many countries, all of these factors play a role in determining who is afforded their human rights and who is denied them. A woman or child is as much entitled to live free from harm as a man, simply by virtue of being human.

In the context of violence against women, both the victim and the offender have rights. In many countries, the lack of respect for the rights of the offender is an issue, just as is the lack of respect for the rights of victims.

The Charter of the United Nations, adopted in 1945, is generally considered the fundamental document for subsequent international human rights laws, norms and standards. The Charter proclaims and recognizes the inherent dignity of all human beings and their equal and inalienable rights, and effectively states that those rights are a subject of international concern and thus are no longer within States' exclusive domestic jurisdiction. Article 13, paragraph 1, of the Charter states that fundamental freedoms are for all, without distinction as to race, sex, language, or religion.

The Universal Declaration of Human Rights²⁹ followed in 1948 and in its preamble notes that the recognition of the inherent dignity and equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. It further recognizes that the Member States of the United Nations have reaffirmed their faith in human rights and the equal rights of men and women.

Article 1 of the Universal Declaration recognizes that all human beings are born free and equal in dignity, while article 2 provides that everyone is entitled to all the rights

²⁹General Assembly resolution 217 A (III).

and freedoms set forth in the Declaration, without distinction with regard to race, colour, sex, religion, political or other opinion, national or social origin, property, birth or other status.

The International Covenant on Civil and Political Rights³⁰ of 1966 provides that every human being has the inherent right to life and that no one shall be arbitrarily deprived of his or her life (article 6), and also recognizes the right of men and women of marriageable age to marry and to found a family and that no marriage shall be entered into without the free and full consent of the intending spouses (article 23).

Additional United Nations instruments and standards that refer specifically to the protection of women's (and children's) rights and protection from violence and other harms, and to the Model Strategies, include:

- International Covenant on Civil and Political Rights and Optional Protocols thereto³¹
- International Covenant on Economic, Social and Cultural Rights³²
- Convention on the Elimination of All Forms of Discrimination against Women and Optional Protocol thereto³³
- Convention on the Rights of the Child³⁴
- Convention on the Political Rights of Women³⁵
- Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others³⁶
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment³⁷

Building on the above is the Platform for Action adopted by the Fourth World Conference on Women, in which three strategic objectives were established for Member States, critical to violence against women:

- (a) Take integrated measures to prevent and eliminate violence against women;
- (b) Study the causes and consequences of violence against women and the effectiveness of preventive measures;
- (c) Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.

Within these objectives, the Platform for Action sets out a series of specific actions to be taken by States, including implementation of international human rights

³⁰General Assembly resolution 2200 A (XXI), annex.

³¹Optional Protocol to the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex; Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (resolution 44/128, annex).

³²Resolution 2200 A (XXI), annex.

³³United Nations, *Treaty Series*, vol. 2131, No. 20378.

³⁴*Ibid.*, vol. 1577, No. 27531.

³⁵General Assembly resolution 640 (VII), annex.

³⁶United Nations, *Treaty Series*, vol. 96, No. 1342.

³⁷*Ibid.*, vol. 1465, No. 24841.

instruments; adoption and periodic review of legislation on violence against women, access to justice and effective remedies; policies and programmes to protect and support women victims of violence; and awareness-raising and education.

In addition to the above list, there are several other United Nations instruments and standards that relate to the protection of women, children and vulnerable groups, including:

- Declaration on the Elimination of Violence against Women
- International Convention on the Elimination of All Forms of Racial Discrimination³⁸
- International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families³⁹
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty⁴⁰
- Beijing Platform for Action
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime
- Rome Statute of the International Criminal Court⁴¹
- Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949⁴² (Fourth Geneva Convention)
- Code of Conduct for Law Enforcement Officials⁴³
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)⁴⁴
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty⁴⁵
- Guidelines for Action on Children in the Criminal Justice System⁴⁶
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power⁴⁷
- Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime⁴⁸
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography⁴⁹

³⁸Ibid., vol. 660, No. 9464.

³⁹Ibid., vol. 2220, No. 39481.

⁴⁰General Assembly resolution 45/113, annex.

⁴¹United Nations, *Treaty Series*, vol. 2187, No. 38544.

⁴²Ibid., vol. 75, No. 973.

⁴³General Assembly resolution 34/169, annex.

⁴⁴Resolution 40/33, annex.

⁴⁵Resolution 45/113, annex.

⁴⁶Economic and Social Council resolution 1997/30, annex.

⁴⁷General Assembly resolution 40/34, annex.

⁴⁸Economic and Social Council resolution 2005/20, annex.

⁴⁹United Nations, *Treaty Series*, vol. 2171, No. 27531.

Additionally, there are regional instruments, such as those developed in Africa, member States of the Association of Southeast Asian Nations, Europe and the Americas, relating to the protection of rights of women and girls.

Organizations such as the United Nations Children's Fund have also made international declarations; the Economic and Social Council has passed resolutions; the International Labour Organization has adopted conventions; and the Office of the United Nations High Commissioner for Human Rights has set up programmes, all in some way relating to the protection of the rights of women and girls, and protecting them from harm.

Rights of women and state obligations

While United Nations instruments generally define rights for all persons, there are many specific examples of language focusing on women and girls.

Article 3 of the *Declaration on the Elimination of Violence against Women* provides that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economical, social, cultural, civil or any other field. These rights include the right to life, the right to equality, the right to liberty and security of person, the right to equal protection under the law and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Article 4 of the Declaration sets forth that States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligation with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women. To that end, States should, among other things:

- Refrain from engaging in violence against women.
- Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.
- Consider the possibility of developing national plans of action to promote the protection of women against any form of violence, or to include provisions for that purpose in plans already existing, taking into account, as appropriate, such cooperation as can be provided by NGOs, particularly those concerned with the issue of violence against women.
- Develop preventive approaches that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices and other interventions.
- Work to ensure that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling and health and social services, facilities and programmes.

- Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women.
- Promote research, collect data and compile statistics, especially concerning domestic violence, relating to the prevalence of different forms of violence against women and encourage research on the effectiveness of measures implemented to prevent and redress violence against women, those statistics and findings of the research to be made public.
- Adopt measures directed towards the elimination of violence against women who are especially vulnerable to violence.
- Recognize the important role of the women's movement and NGOs worldwide in raising awareness and alleviating the problem of violence against women.
- Facilitate and enhance the work of the women's movement and NGOs and cooperate with them at the local, national and regional levels.

As regards the protection of children, the Convention on the Rights of the Child declares that States have an obligation to ensure that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration (article 3, para. 1).

States should also ensure that the child has such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians or other individuals legally responsible for him or her (article 3, para. 2). Institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health and in the number and suitability of their staff. Law enforcement officials who work with children are to receive special training.

The Convention does not differentiate between boy and girl children.

Article 19 of the Convention requires States to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. Article 34 requires States to protect the child from all forms of sexual exploitation and sexual abuse. In particular they shall prevent the inducement or coercion of a child to engage in any unlawful sexual activity, the exploitative use of children in prostitution or other unlawful sexual practices, and the exploitative use of children in pornographic performances and materials. Article 35 calls upon States to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

In regard to the protection of women from discrimination, the Convention on the Elimination of All Forms of Discrimination against Women defines “discrimination” as any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, social, cultural, civil, or any other field (article 1).

Articles 6-27 of the International Covenant on Civil and Political Rights set forth civil and political rights, which include:

- Right to life, liberty and security
- Freedom from slavery and servitude
- Freedom from torture or cruel, inhuman or degrading treatment or punishment
- Right to recognition as a person before the law, to judicial remedy, freedom from arbitrary arrest, detention or exile, right to a fair trial and public hearing by an independent and impartial tribunal, the right to be presumed innocent until proven guilty
- Freedom from arbitrary interference with privacy, family, home or correspondence, from attacks upon honour and reputation, and the right to protection of the law from such attacks
- Freedom of movement
- Right to asylum
- Right to a nationality, to marry and found a family
- Right to own property
- Freedom of thought, conscience and religion, of opinion and expression, association and peaceful assembly
- Right to take part in government and to equal access to public services

Articles 3-15 of the International Covenant on Economic, Social and Cultural Rights set forth the economic, social, and cultural rights to which all human beings, including women, are entitled, including:

- Right to social security
- Right to work and to equal pay for equal work, and the right to form and join trade unions
- Right to rest and leisure
- Right to an adequate standard of living and the highest attainable standard of physical and mental health
- Right to education
- Right to participate in the cultural life of the community

In essence, everyone, including women and girls, has the right, without distinction as to race, sex, language, or religion, to:

- Life
- Liberty and security of person
- Equal protection under the law
- Dignity
- Protection from harm, including violence, torture or other cruel, inhuman or degrading treatment or punishment
- Make decisions that directly affect them, including whom to marry

States are required to provide, and protect, these rights and to ensure equal access to protection for all.



III. Factors underlying violence against women

There is no one single, definitive “cause” of violence against women. Any woman, regardless of age, race, ethnicity, education, cultural identity, socio-economic status, occupation, religion, sexual orientation or physical or mental abilities, may be vulnerable to violence.

Violence against women, in particular domestic violence, is a complex problem. There may be many different contributing factors, at the individual, relationship and societal/cultural levels. However, many experts believe that domestic violence is linked to inequalities among people and power imbalances in relationships.

Social isolation, lack of access to community services and support, and to the criminal justice system, may further increase a woman’s vulnerability to violence—or compound the effects of abuse.

Risk factors that may lead to increased vulnerability to violence, especially domestic violence, include, but are not limited to:

- Change in relationship status or an impending break-up of a relationship
- Sudden downward change in economic status (e.g. loss of employment by the women or her partner)
- Pregnancy
- Presence of alcohol and/or drug abuse
- Presence of firearms
- Past history of abuse and/or violence
- Sudden change in health status (e.g. chronic illness or disability)
- Presence of mental illness
- Current legal/court involvement
- Emergent or chronic family stressors

None of these excuse domestic violence.

A person who is being abused may be reluctant or unable to talk about or report abuse for many different reasons, including to the police. They may:

- Be emotionally attached to the abusive partner
- Have strong beliefs about keeping their relationship or family together
- Fear that the abuser will retaliate against them or their loved ones
- Fear being stigmatized by others
- Be economically dependent on the abusive partner
- Live in an isolated area
- Be socially isolated from others
- Face communication, language or cultural barriers
- Feel ashamed or powerless and lack access to information, resources and support

In particular, victims may be reluctant to involve authorities because they:

- Do not want the abuser to be removed from the home, go to jail or have a criminal record
- Do not believe that involving the criminal justice system will stop the abuse
- Do not believe that the criminal justice system can help or protect them.⁵⁰

There are many reasons why women stay in a relationship that is abusive. Victims may fear for their personal safety and that of their children. They may also fear leaving the financial security of the home or the loss of their children to the abuser.

For police who respond to and investigate domestic violence, it is important to remember that for a woman to leave her abusive partner, is often more of a process than a moment. Many women may not leave after being abused or suffering violence or, if they do, may return shortly after. It may take several such events, and attempts at intervention, before they leave for good. Having a safe place to go, such as a shelter, will help many women to make the ultimate decision to leave.

Early intervention, especially by the police, establishes a path that will protect a woman (and her children), helps prevent an escalation of violence, reduces the likelihood of homicide and serious assaults and, where possible, helps maintain family stability.

According to the National Judicial Institute on Domestic Violence of Canada, there are five central characteristics of domestic violence:

- Domestic violence is learned behaviour.
- Domestic violence typically involves repetitive behaviours, encompassing different types of abuse.
- The batterer, not substance abuse, the victim or the relationship, causes domestic violence.

⁵⁰Canada, Alberta Justice Communications, *Domestic Violence Handbook for Police and Crown Prosecutors in Alberta* (2008), p. 25.

- Danger to the victim and children is likely to increase at the time of separation.
- The victim's behaviour is often a way of ensuring survival.⁵¹

In addition to not leaving, these complexities can provide other challenges for police, including victims who are reluctant to cooperate with police or later recant statements they have made that described the violence.

FACTORS THAT PERPETUATE VIOLENCE AGAINST WOMEN

Cultural

- Gender-specific socialization
- Cultural definitions of appropriate sex roles
- Expectations of roles within relationships
- Belief in the inherent superiority of males
- Values that give men proprietary rights over women and girls
- Notion of the family as the private sphere and under male control
- Marriage customs (bride price/dowry)
- Acceptability of violence as a means to resolve conflict

Economic

- Women's economic dependence on men
- Limited access to cash and credit
- Discriminatory laws regarding inheritance, property rights, use of communal lands and maintenance
- After divorce or widowhood
- Limited access to employment in the formal and informal sectors
- Limited access to education and training for women

Legal

- Lesser legal status of women by written law and/or in practice
- Laws regarding divorce, child custody, maintenance and inheritance
- Legal definitions of rape and domestic abuse
- Low levels of legal literacy among women
- Insensitive treatment of women and girls by the police and judiciary

Political

- Underrepresentation of women in power, politics, the media and the legal and medical professions
- Domestic violence not taken seriously
- Notion of the family as being private and beyond the control of the State
- Risk of challenge to the status quo/religious laws
- Limited organization of women as a political force
- Limited participation of women in organized political systems^a

^a"Causes of domestic violence", *Innocenti Digest*, vol. 6, June 2000, p. 7.

⁵¹Ibid., p. 29.

GOOD PRACTICE EXAMPLES

On International Women's Day in March 2003, in partnership with the World Bank and the consortium of NGOs, the Coalition for Rural Empowerment, the Delhi (India) police launched the first of 114 gender sensitization workshops to be held over the year for 124 police stations, involving 6,000 police personnel. The programme was designed to respond to the lack of awareness among police of the relevant laws concerning women's rights and to determine how to better deal with the high levels of crime against women in the city, including domestic violence.

Gender experts, NGO workers, women's activists, judicial officials and senior police officers provided training on a range of topics, including gender and HIV/AIDS. As the training was held at the Sudinalay Rehabilitation Shelter Home for Women and Children, where the Coalition for Rural Empowerment operates, the participating police personnel had an opportunity to learn first-hand from victims the impact of violence upon their lives.

Observers from other state police forces attended the training, with the intention of implementing similar programmes in their own home states. As a result of the initiative, the Delhi police have since incorporated a major gender sensitization module into the regular training course for police personnel at the Delhi Police Training Academy.^a

In Islamabad, a Pakistani NGO called Rozan is conducting gender violence sensitization workshops with the police to help transform the way that officers think about and respond to gender-based violence. These workshops focus on gender implications in both personal and professional aspects of police officers' lives and help individuals see the connections between the two.^b

^aWorld Bank, Gender and Development Group, *Improving Women's Lives: World Bank Actions since Beijing* (Washington, D.C., January 2005). Available from <http://siteresources.worldbank.org/INTGENDER/Resources/Beijing10Report.pdf>.

^bJames L. Lang, "Working with men to end gender-based violence: lessons for the South Asian Context", background document prepared for the subregional training workshop on elimination of violence against women in partnership with men, New Delhi, 2-5 December 2003. Available from www.unescap.org/ESID/GAD/Publication/DiscussionPapers/15/series15-main-text.pdf; and Economic and Social Commission for Asia and the Pacific, "Involving men in eliminating violence against women: examples of good practices", background document prepared for the subregional training workshop on elimination of violence against women in partnership with men, New Delhi, 2-5 December 2003. Available from www.unescap.org/ESID/GAD/Publication/DiscussionPapers/15/series15-main-text.pdf.



IV. Preventive approaches

Prevention of violence towards women, including domestic violence, takes many forms and can involve just as many actors. Programmes can be implemented to prevent forms of violence or afterwards to prevent further victimization and a potential escalation of force. For example, prevention can include:

- Mainstreaming of gender issues in national and local policy, legislative reform and institutional practices
- Promoting a culture that does not tolerate violence against women
- Mobilizing communities, NGOs and civil society to take coordinated action that helps prevent domestic violence and offers support to victims and their families
- Addressing factors (within the family, the community and the nation) that can lead to violence—lack of communication and conflict-resolution skills, poverty, alcohol and drug abuse, illiteracy, homelessness and a lack of access to police and to the justice system
- Implementing broad-based community education programmes that highlight the issue of domestic violence, using media, civil society, religious groups and community leaders to target both potential victims and offenders, in addition to the larger community
- Adopting police policy that directs police to always respond to an alleged act of violence towards women and to make arrests where evidence permits
- Prosecution policy that directs that all charges involving violence directed towards women are to be acted upon⁵²
- Consistent application of police and court policies designed to protect women
- Specialized training and sensitivity development for justice system professionals such as police officers
- The executive and judiciary creating new public policy, in cooperation with communities, to enhance systems that respond to victims of violence

⁵²It is not necessary for all charges to go to trial, as a guilty plea prevents the need for a victim to face her abuser in public and possibly also to relive the trauma of the event.

- Creation of specialized police teams that focus specifically on violence against women
- Opening a neighbourhood community police station in order to make the police more accessible
- The appointment of specialized victim service workers attached to police offices
- The appointment of specialized victim service workers attached to the court
- Police and social service agencies working with women who are victims of domestic violence to develop personal safety plans that help mitigate the risk of future incidents
- Police, using specialized tools and training, conducting risk assessments to help determine the likelihood and potential severity of future attacks on a woman who has already been a victim of domestic violence
- Dedicated shelters for women who have been attacked
- The implementation of a specialized victim examination and treatment centre, with women staff, at a local hospital
- Community legal education programmes and centres that promotes awareness of rights and legal remedies
- Conducting local and national surveys and reviews of existing data to identify factors that lead to violence against women and then developing public policy and strategic plans to address such factors
- Establishing standards and mechanisms for collecting relevant statistical data on violence against women
- Annually monitoring crime statistics related solely to victimization of women so that policy, practice and resources can best be applied

Like many forms of cultural change, equal parts of encouragement and sanction are required. The engagement of people needs to be encouraged and there need to be sure and visible consequences for those who act contrary to a culture of lawfulness. This includes holding men and women who abuse women accountable for their action.

GOOD PRACTICE EXAMPLE

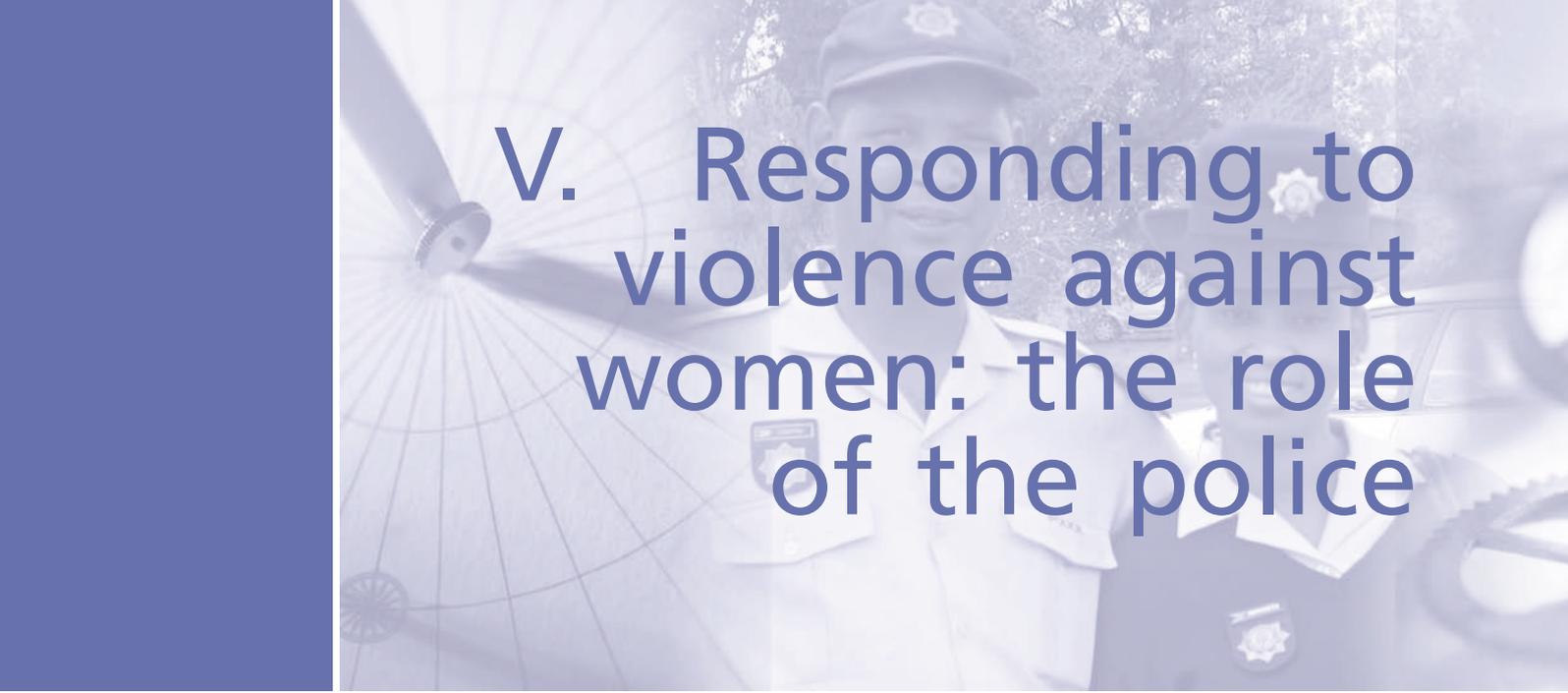
In Costa Rica, a special committee has been formed with high-level authorities to help prevent the murder of women in intimate relationships. The institutions directly involved with this goal have signed a protocol to be applied in cases of high risk to the lives or integrity of women. The Ministry of Security, the Ministry of Justice (responsible for jails), the Costa Rican public health system, the judicial system, the public services and the National Institute for Women all have agreed to follow this protocol. In all instances where a threat has been made or identified, a risk evaluation has to be made each time these agencies deal with a situation of violence against women in order to trigger special measures when they identify high risk. A common database is used to collect information from all agencies, such that protective measures are recorded, shared and tracked, as well as violations of the orders, or other acts and factors that may tend to increase the risk of homicide.

GOOD PRACTICE EXAMPLE

Several countries (including Argentina, Bolivia (Plurinational State of), Brazil, India, Peru, the Philippines and Uruguay) have taken the approach of setting up women's units or police stations staffed by women to improve the ability of the police to respond to the unique needs of women victims. In most cases, much of the work undertaken by these special units relates to violence against women, specifically domestic violence. Anecdotal reports suggest that many of these initiatives have been favourably received by women as they are commonly viewed as being receptive and supportive to women victims.^a

Such women police units have also helped raise the profile of women in policing and attracted more women to the profession once they see visible signs of women making equal contributions to community safety, crime prevention and crime response.

^aOrganization for Economic Cooperation and Development, "Conflict, peace-building, disarmament, security: (b) the police and equality between women and men", November 1998. Available from www.oecd.org/dataoecd/2/44/1896480.pdf.



V. Responding to violence against women: the role of the police

In the Model Strategies, Member States are urged, within the framework of their national legal systems (paragraph 8):

(a) To ensure that the applicable provisions of laws, codes and procedures related to violence against women are consistently enforced in such a way that all criminal acts of violence against women are recognized and responded to accordingly by the criminal justice system;

(b) To develop investigative techniques that do not degrade women subjected to violence and that minimize intrusion into their lives, while maintaining standards for the collection of the best evidence;

(c) To ensure that police procedures, including decisions on the arrest, detention and terms of any form of release of the perpetrator, take into account the need for the safety of the victim and others related through family, socially or otherwise, and that these procedures also prevent further acts of violence;

(d) To empower the police to respond promptly to incidents of violence against women;

(e) To ensure that the exercise of police powers is undertaken according to the rule of law and codes of conduct and that the police may be held accountable for any infringement thereof;

(f) To encourage women to join police forces, including at the operational level.

Many States still have much work to do in order to meet these suggested guidelines, including the provision of a consistent police response to incidents where a woman is subjected to violence.

This chapter provides guidance and good practice examples on how police can better respond to acts of violence against women, including domestic violence. It includes content relating specifically to police conduct, the need for guiding policies, the process and stages of an investigation, including the collection and preservation of evidence, conduct of interviews, assistance to and protection of victims and witnesses, including threat assessment, responding to offenders, privacy and confidentiality, and police oversight mechanisms.

This *Handbook* is not intended as an exhaustive examination of police investigative approaches to violence against women. Rather, it is meant as an introduction and overview, primarily for use by police agencies that have not previously taken a systemic approach to responding to violence against women.

There are many excellent international resources that delve more deeply into each of the above topics and readers are encouraged to seek them out for further study and reference (see annex II).

A. Introduction

Historically, in many States, police responses to violence against women have been typified by uneven service delivery, underreporting by both police and victims, and victim dissatisfaction. Many police officials have viewed domestic violence as a “private” matter, best left behind closed doors. This has resulted in attitudes and systems that minimize police responses and discourage specialized responses to women who are victims. Officers who do take action to better meet the needs of women victims of violence have sometimes faced recriminations and social isolation, with their efforts being denigrated.

Generally, police have a duty:

- (a) To effectively investigate all alleged incidents of violence against women;
- (b) To conduct all investigations in a manner that respects the rights and needs of each woman without needlessly adding to the existing burden experienced by the victim;
- (c) To take action to support and protect all victims of crime;
- (d) To prevent crime, maintain public order and enforce laws

In times past, in many countries, police have not fulfilled all these duties as they related to violence against women. Often, police have not taken specific steps to respond to or prevent violence against women. In some contexts, a major complaint of women has been uneven service delivery or sometimes no response at all to complaints of violence. This has at times been compounded by limited access to police and the ability of women to report victimization.

In the recent past, in many parts of the world, much has changed. Some Governments and police agencies have adopted standardized definitions of domestic violence, improved access to the police and other services for victims, hired and promoted more women police officers, implemented standardized protocols for reporting, investigation and documentation, and improved measures to meet the needs of victims and provide protection from further harm.

There has been improved police training and the creation of specialized investigative units to respond to reports of domestic violence. New laws have been enacted and, in some States, specialized courts devoted to domestic violence have been established.

Programmes that promote community education, greater awareness and the prevention of domestic violence have also been set up. Local authorities and national Governments in many States now collect and monitor statistics relating to violence against women.

The police have a vital role to play in the prevention of violence against women. One part of this is how they respond to incidents and what measures are taken to protect the woman in the immediate aftermath, before and at trial, and afterwards.

GOOD PRACTICE EXAMPLE

To help ensure employment equity and to make the police more approachable to women, the Organization for Security and Co-operation in Europe has made efforts in Kosovo and elsewhere in the Balkans to make the recruitment of women police a high priority. National police academy classes have averaged 18 per cent women, which was previously unprecedented in the region. At the same time, the issue of domestic violence has been strongly emphasized, both as a social problem and as a crime to be investigated, in police academy training.

B. Code of Conduct for Law Enforcement Officials

In 1979, the General Assembly adopted a Code of Conduct for Law Enforcement Officials, which states:

- Police are to serve the community by protecting all persons from illegal acts, consistent with the high regard of responsibility required by their profession.
- In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

The purpose of the Code of Conduct is to ensure that law enforcement officials (police) act in accordance with the principles of human rights, including respect for all persons, acting at all times in accordance with the law and protecting the rights of all persons, including those who violate the law, and vulnerable persons such as children and juveniles, and women who experience violence.

Failure of police to act in accordance with these simple rules can have several negative consequences, including legal sanctions/discipline being imposed on individual officers, loss of community respect, support and cooperation, and a general community loss of faith in and respect for the police and the larger criminal justice system.

C. Police agency guiding policies

Critical to both an appropriate and effective police response to incidents of domestic violence and the prevention of future and escalating incidents is the presence of guiding policies. Policies give direction and state an agency's belief in good practices.

Police policies can be supported by public policy statements from senior levels of government. These can recognize and emphasize that violence against women and domestic violence are criminal offences, and direct arrest and prosecution of offenders. Such policies can go on to outline necessary measures to ensure the protection of women and children who may be at risk, including support from police, prosecution, the courts and prisons.

For police, public policy can direct enforcement action always to be taken, mandatory arrests and laying of charges (where law and evidence permits), requests for bail/release conditions or court-ordered detention, thorough investigation and the provision of assistance to victims that will aid in ensuring their protection.

Police agency operational policies need to refer to legal definitions of violence against women and to recognize that it can and does occur in married, common-law and same-sex relationships, in addition to dating relationships, and relationships that have ended, as well as acts of violence towards women that can occur in the larger community. In addition to general acts of violence towards women, policy statements can address various forms of domestic violence, including stalking and criminal harassment.

In policing, policy statements give direction not only to police first-responders, secondary investigators and supervisors, but also to call-takers, dispatchers and front-desk personnel who may be the first point of contact with a victim. This direction must encompass giving priority response/attention to all reports of domestic violence, proscribed sensitivities, the need to ensure victim safety, evidentiary requirements, charging of offenders, measures to mitigate future acts of violence, including processes for case management and follow-up, referral to additional services and the role of police at trial.

In more detail, policy can direct responding officers:

- To quickly separate the parties.
- To take steps to ensure the safety of the victim, including any children who may be present.
- To assist any party in obtaining medical assistance, if necessary.
- To ascertain if language is a barrier and arrange to provide a translator when necessary. Children or family members should not be used as interpreters.
- To gather and preserve evidence in accordance with the police service's investigative procedures, which should include making detailed notes of the actions and utterances of the parties and a detailed occurrence report regardless of whether any charges are brought or an offence is alleged.
- To ensure that any children at the scene are provided with appropriate support/assistance as required, including referrals to appropriate agencies.
- To make detailed notes, including the actions and utterances of all the parties involved.
- To conduct detailed interviews with all victims and witnesses.

- To assist the victim with a personal safety plan.
- To interrogate the offender or alleged offender (at the police station).
- To complete a detailed occurrence report for every domestic violence occurrence, regardless of whether any charges are brought, and to enter that information on the police service's information system for future reference.

Paragraph 8 of the Model Strategies encourages the adoption of such policies and the creation of standardized and consistent police response to incidents of domestic violence, including that police procedures, including decisions on the arrest, detention and terms of any form of release of the perpetrator, take into account the need for the safety of the victim and others related through family, socially or otherwise. It is further suggested that these procedures also prevent further acts of violence and that exercise of police powers is undertaken according to the rule of law and codes of conduct, and that the police may be held accountable for any infringement thereof.

Some police agencies may have a specialized domestic violence form to be completed by the investigating officer, which can include requests for follow-up investigation or referral to specialized victim service workers. Others may require officers to complete a risk/danger assessment form in an attempt to quantify future risk to the victim from the offender. A few require investigating officers to help the victim assess her individual risk of continued violence and develop a personal safety plan.

In 2006, the International Association of Chiefs of Police adopted a model policy to establish international guidelines for police responding to domestic violence calls.⁵³ In that policy, officers are expected:

- To establish arrest and prosecution as a preferred means of police response to domestic violence
- To take appropriate action for any violation of permanent, temporary or emergency orders of protection
- To afford protection and support to adult and child victims of domestic violence
- To promote the safety of law enforcement personnel responding to incidents of domestic violence
- To provide victims or witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders in order to prevent further abuse and harassment or both
- To complete thorough investigations and effect arrest of the predominant aggressor upon the establishment of probable cause

The policy goes on to articulate a number of factors an officer may not consider in making a determination to arrest, including marital status, ownership or tenancy rights, verbal assurances that the violence will stop, emotional status of the victim,

⁵³Available from www.iacp.org.

visible or non-visible injuries, denial of domestic violence by either party, belief that the arrest may not lead to a conviction, financial consequences of an arrest to either party, racial, cultural, social, political or professional status or sexual orientation of either the victim or suspect, use of alcohol or drugs or both by either or both parties, or the perception of the willingness of any party to testify or participate in a judicial proceeding.

GOOD PRACTICE EXAMPLE

In the United Kingdom of Great Britain and Northern Ireland, some towns have created “bail hostels” where alleged perpetrators of domestic violence must live while awaiting trial. This allows them to keep working and to help support their families, rather than holding them in jail prior to trial. The hostels also allow the victim, and her children, to remain in the home and be protected from further violence.

Measures have also been undertaken to allow police to accept third-party reports of domestic violence in cases where the victim is too afraid or unwilling to provide a statement. A “cocoon watch” initiative has also been proposed that would encourage neighbours to report to the police suspected cases of domestic violence.

D. Investigating acts of violence against women

In paragraph 8 (b) of the Model Strategies, States are urged, on police matters, to develop investigative techniques that do not degrade women subjected to violence and that minimize intrusion into their lives, while maintaining standards for the collection of the best evidence. These include the development and adoption of practices that are sensitive to the unique nature of both the crime and the victim.

An investigation is a methodical exercise in problem-solving that involves identifying the offence by examining facts or circumstances of an incident and identifying the enforcement option appropriate to the facts or circumstances. While the complexities and dynamic nature of domestic violence are unique from other investigations, the purpose and guiding principles remain largely the same.

The purpose of an investigation is:

- To determine whether an offence was committed or to disprove an allegation
- To identify victims and witnesses
- To gather and preserve evidence of any kind that may be relevant
- To discover the cause, manner and location of an offence
- To prove the identify of the suspect or person(s) responsible
- Where appropriate, to formulate the ground to bring a charge

- To document the investigation, and evidence, and to prepare to present evidence at trial
- To prevent further victimization (includes both the victim and others who may be affected, such as children)

An effective investigation, generally, is one where the investigator:

- Acted in a professional, impartial and objective manner
- Was diligent in the collection of physical evidence and statements
- At all times treated all parties involved with respect and dignity
- If there was an offence, identified the person(s) responsible and collected sufficient evidence to prove the case in court
- Took steps to address the safety needs of all involved

A good police investigator will:

- Have a sense of process and understand its importance in an investigation
- Thoroughly document all facets of the investigation
- Have respect for evidence (what it is, its value and how to collect, preserve and document it)
- Take an analytical and creative approach to problem-solving
- Effectively use all investigative tools and resources available

While there are many accounts—some historical and others still current—of poor police practices in responding to violence against women, much has been done to better address such violence and to meet the needs of victims.

In cases of domestic violence, victims are sometimes reluctant to give statements to the police, have charges brought or testify at trial. Some States have taken the decision out of the victim's hands as to whether or not charges are brought and have adopted a policy of mandatory charging where evidence supports a charge. In such cases, police are required to conduct a thorough investigation of all alleged cases of domestic violence and to arrest the perpetrator. States that have adopted such policies believe this is in the best interests of the victim and that it will help enhance her future safety.

In States where the law requires victim cooperation in bringing a charge, some victims may be reluctant to proceed for fear of reprisal from the offender or the family, or community alienation, or out of a fear of being left alone if the abuser is removed from the home. In such cases, police will need to pay special attention to addressing and relieving the fears of the victim and to take specific steps to protect the victim. This can include taking the victim to a shelter, seeking a legal restraining order against the offender where the law permits and working with the victim to create a personal safety plan. All this is in addition to the need for a thorough police investigation, including detailed interviews of victims and witnesses, offender interrogation and the collection of evidence.

GOOD PRACTICE EXAMPLE

The Diana Group has been set up by the local police force in Seville (Spain).

In 2002, as a result of a protocol signed between the Department for Equality and the Local Government Office of Seville City Council, a specialist unit was created within the local police force to deal with gender-based violence. The specialist unit, the Diana Group, came into being after it was realized that, although women who had been subjected to abuse frequently used police services, they often experienced the police as being remote from them. Consequently, and to avoid secondary victimization, the Diana Group is geared towards providing survivors with ongoing specialist care so that, rather than having to deal with many different officials who are unaware of their overall situation, they are seen by a specially trained group who know about the specific issues facing them.

Recognition of the specific dynamics that exist with crimes of this type and the impact they can have on the lives of victims has determined the criteria on which intervention is based: immediacy, proximity and continuity. To help the local police unit get closer to survivors, it adopted a name that did not consist of an acronym or “official” sounding title and, to ensure that the service provided is as effective as possible, its officers wear plain clothes.^a

^aAmnesty International, *Spain: More than words—Making Protection and Justice a Reality for Women who Suffer Gender Based Violence in the Home* (London, 2005), p. 27.

Police response: general

Police have a duty to prevent and investigate serious crimes; this includes a responsibility to conduct a substantive investigation of all crimes involving domestic violence and to treat all those involved with dignity and respect.

The investigation of a crime is a process and in summary comprises the following:

- An initial and prompt response to all alleged incidents of domestic violence
- Ensuring the safety of all the persons involved
- Identification of the crime and those directly involved (victim, witnesses, perpetrator(s))
- Utilization of all possible investigation aids (e.g. fingerprint experts, physicians)
- Systematized collection of all relevant evidence (e.g. victim and witness statements, weapons, letters, notes, hair)
- Documentation of the investigation and preparation of a court brief
- Preparation and provision of support to the witness during the court procedures⁵⁴

A police agency’s response to incidents of domestic violence is based on its stated principles—how they officially view and prioritize violence against women—which are in turn defined in operational guidelines.

⁵⁴Adapted from the *SARPCCO Training Manual* ..., p. 132.

GOOD PRACTICE EXAMPLE

The Southern African Regional Police Chiefs Cooperation Organization has developed a comprehensive training package for delivery to police in the region. Entitled *SARPCCO Training Manual: Violence against Women and Children*, the package includes an instructional curriculum and participant manual. The material focuses on various kinds of violence against women and children, including rape, sexual harassment, physical abuse, trafficking in women and children, violence in armed conflict and harmful traditional practices. Suggested guidelines for police action, and prevention, are included in the training, which is now being delivered across Southern Africa.

Initial response (uniformed patrol officers)

The first officers on the scene of an incident of domestic violence are advised:

- To immediately separate the victim from the perpetrator and to ensure the victim's safety. Because it is often a power and control situation, it is incumbent upon the officers to ensure that the parties are out of sight and hearing of each other, while always keeping officer safety a priority.
- To identify and secure any weapons that may be on hand, so as to protect all persons present.
- If present, to isolate, search and secure the perpetrator: have him removed from the scene.
- To arrange medical treatment for any injured persons.
- To ascertain the initial facts of what has happened and to identify the offence.
- To begin to identify and collect all potential evidence of the offence.
- To conduct an initial interview of the victim (an in-depth interview may take place later, including a formal written statement).
- To interview all witnesses and collect written statements as necessary.
- To arrange for any required follow-up/secondary investigation (e.g. forensics, medical examination).
- To contact victim services (if available) to assist with care and support of the victim.
- To document the investigation, evidence and statements in a formal report.

Good practice example

In Austria, the removal law provides the police with the power to remove domestic violence perpetrators from the home for 10 days. Women can apply to the court to have the order extended. Similar laws have been enacted in Germany and Switzerland. Many jurisdictions provide opportunities for protection orders, including expulsion of the perpetrator from the common home. Such orders can be supplemented by other elements, including access to shelters, victim/witness protection and anti-stalking/harassment laws. These highlight how laws, coupled with police and court action and community support, can help safeguard women from further violence.

Ensuring victim safety

In the Model Strategies, Member States are urged, in paragraph 8 (c), to ensure that police procedures, including decisions on the arrest, detention and terms of any form of release of the perpetrator, take into account the need for the safety of the victim and others related through family, socially or otherwise, and that these procedures also prevent further acts of violence.

Safeguarding the rights of victims and creating a system that respects their privacy, dignity and autonomy is a principle of good police practice.⁵⁵

In some States, police intervention in cases of domestic violence is restricted by their not being permitted to use force or to enter residential premises without a search warrant, even if neighbours call the police and confirm that they have heard shouts and noises indicating that violence is in progress. In some States, officers may only enter private property if authorized by one of its residents.

There are a number of procedures that law enforcement officers can adopt in situations such as those described above without infringing the right to protection of private property and rights of the individual:

- The police respond to all calls irrespective of the caller, whether it is the victim, children or neighbours. Calls are acted on even in cases where the family has a history of violence and police intervention.
- On arrival at the scene where an assault is in progress, police officers identify themselves and talk to the resident who receives them (it is possible that he is the assailant since he needs to control who will or will not enter his home), explaining the reason for their presence on the premises.
- Police officers act with caution and discretion and avoid identifying the individual who reported the incident since that fact could put another person at risk and discourage neighbours from cooperating as witnesses.
- Police officers request authorization to enter the residence and check that all is in order. They also ask to speak to any other residents on the premises to ensure their safety.
- In the event of resistance, police officers make a report on the incident, containing a description of the premises and details of the conversation with the resident. It is important that they make it clear to the possible assailant that the incident has been noted by the police and that legal measures may be taken against him.
- Police officers also gather information from neighbours, in particular details of the scene (arguments, shouting, destruction of objects). It is important for police officers to be careful when interviewing neighbours to avoid further exposure to violence.
- Where police officers are authorized to enter the dwelling and manage to talk to and/or see the victim, it is important for them to be able to make a general

⁵⁵www.un.org/womenwatch/daw/egm/vaw-gp-2005/docs/experts/logar.dv.pdf.

assessment of the risk to the victim's physical safety. Police should check whether the victim is hurt or shows an altered psychological state (high stress level, state of shock, depression), whether items of furniture or objects are broken and whether there are weapons on the premises.

- Police officers talk separately to the victim and to the assailant, looking for evidence to enable the incident to be classified as a crime.

In accordance with legislative provisions, both victim and perpetrator may be taken to the police station for purposes of the police incident report and the perpetrator may be detained.

Secondary response (investigators)

Depending on the crime, its severity, complexity and the unique needs of the victim and her family, there may be a secondary level of police response from specialist investigators, supervisors or a multidisciplinary team. In some States, police units assigned to investigate incidents of domestic violence are embedded in the major crimes section. This can illustrate the agency commitment to eradicating this form of crime and to ensuring the protection of women.

To ensure a well organized police response that best meets the protection needs of the victim, especially in severe instances of domestic violence, one role of the secondary investigators is overall case management. This includes keeping a victim notified of the progress of the case, the detention/release status of the perpetrator and how to access additional services.

“Case management”, also referred to as “file management”, is the process followed to “manage” an investigation, including coordination of evidence collection, victim and witness interviews, follow-up, offender identification and apprehension. In many cases, investigators face a number of challenges, including:

- Time management
- Investigator fatigue
- Managing competing demands for services and resources
- Directing and managing multiple investigators
- Sorting through and analysing the meaning and value of large amounts of information
- Following up on leads, evidence and victim/witness statements
- Identifying and interviewing all relevant witnesses and victims
- Identifying and locating the offender(s)
- Ensuring the ongoing safety of the victim
- Filing reports and keeping managers apprised of issues and progress in the case

Case management can be used to minimize intrusion into victims lives, including reducing the need to conduct additional interviews.

Often, much of the work of managing a case/investigation is done by hand with pen and paper, rather than using electronic files. Scarce resources, improper filing, misplaced or lost information can all lead to mistakes in an investigation, delays in resolving a case, links to other cases not being identified and gaps in ongoing protection of the victim. Each problem can increase the level of trauma experienced by victims and witnesses and allow an offender to continue unchecked.

Case management is as much about managing people and resources as it is about management of data and evidence. It focuses on the identification and assignment of investigative tasks/functions, accountability, development of systems and a systematized approach to data management, the overall goal being the resolution of cases and the prevention of continued or future victimization.

Multidisciplinary teams are often used in complex, especially traumatic or large investigations where the police may not have the specialized tools, knowledge or resources to handle all the needs of the victim themselves. Examples include crimes where the victim is too traumatized to offer a statement, suffers from some form of mental/cognitive impairment or requires the assistance of a translator. In all such cases, the investigators may work cooperatively with counsellors, social service workers, psychologists or others who can provide specialized assistance to aid both the victim and the investigators.

Specialized investigative units, support and services

Depending on the police agency, there are a number of specialized groups involved in work relating to violence against women and, more particularly, domestic violence. These include:

- Investigative units dedicated solely to responding to incidents of domestic violence, including all aspects of the investigation and assurance of victim safety. In some agencies, these units are comprised entirely, or mostly, of women investigators.
- Criminal harassment/stalking units, which investigate and intervene in cases of ongoing harassment where it is criminalized, sometimes defined as “stalking”.
- Threat assessment units, which may also be involved in victim/witness protection prior to and after trial.
- Forensic/crime scene units, which collect and analyse evidence.
- Victim services, which can consist of paid or volunteer staff who are called out to crime scenes to take over the comfort and aid of victims from the investigating officers. These workers help with access to additional support services and financial compensation where available. They may also attend court with the victim as one measure of support and keep her notified of the status of her case and resultant trial.

Some of these specialized units will liaise with the courts, prisons, social services and other community and government agencies that are connected with the

investigation, trial or safety of the victim. All have a role in resolving the case and contributing to the safety of the victim.

Police agencies considering creating all-women units that will focus on domestic violence need to consider the risk of “ghettoizing” such units, in other words, marginalizing them and reducing their effectiveness or perceived utility by making them all-women groups. Rather, efforts to enhance the status, importance and prestige of such units might instead be considered. Ideally, they should be seen as elite units, hard to get into, with access to enhanced training and tools, and serving an important purpose.

GOOD PRACTICE EXAMPLE

Brazil was the country that pioneered the use of specialized police units to support women who had been victimized by domestic violence. In 1985, in one state, Brazilian police set up the first specialized police station to deal with women victims of domestic and sexual violence. The establishment of these facilities stemmed from the realization that, although violence against women was a widespread occurrence in society, there were few police reports on such cases and consequently few cases reached the courts and were tried.

Feminist organizations, which since the 1970s had been offering legal and psychological support services to victims of domestic violence, reported that the few women who had the courage to approach the police and file a complaint against their abusive husbands were discouraged by untrained law enforcement officers: the women were not believed; they were sometimes humiliated, made to feel responsible for the incidents and subjected to questioning that invaded their privacy. Ultimately, complaints were rarely recorded and the women were advised to return home and try to make amends for what had happened by “cooking their husbands a tasty dinner and not provoking further arguments”.

In cases of sexual abuse, the humiliation was even worse and in most instances the victims were accused of having caused the situation.

To change this state of affairs, the Government of the State of Sao Paulo set up the first police support unit for women. Under the initial project, assistance was to be provided solely by female police officers in the belief that it would thus be easier for victims to speak about the assaults they had suffered. Given the recognized complexity of spousal abuse, the units would, in addition to police services, offer psychological, social and legal support. To ensure that victims were treated with respect, all practitioners working in the unit were required to complete gender-awareness and other specialized training courses.

The experiment has grown. In Brazil, there are currently 360 specialized police support units for women victims of domestic and sexual violence. These units have become a major referral service for women in situations of violence and the number of cases reported to the police is increasing each year.

Collection of evidence

Evidence can be physical (e.g. a weapon, a document or photograph) or verbal (e.g. a statement from a witness). Evidence may implicate or exonerate a person and is required to convict a person in court.

In an investigation, police must:

- Seek and find material that constitutes evidence
- Recognize the potential of the evidence found
- Document the condition of physical evidence, where it was found and by whom
- Ensure continuity of possession of physical evidence
- Provide the care and attention needed to protect and preserve physical evidence against loss, destruction or deterioration
- Analyse the significance, meaning and relevance of evidence

“Continuity of evidence” refers to the ability of the investigator to honestly and accurately testify in court that the physical evidence being presented is in fact the same item as originally found and is still in the same condition as when first found. The investigator must be able to testify as to who had handled the evidence or had access to it in the time between the moment of presentation and when it was first found. To prove continuity of physical evidence, an investigator must make thorough and complete notes on the item when found, including a description of the item, what condition it was in, where found, by whom and when, where the item was stored and how it was secured at the police station, so as to show that it was not tampered with between that time and when it was presented in court.

In an investigation of domestic violence and other forms of violence against women, in addition to victim statements, police need to be aware of a range of possible forms of evidence, including:

- Signs of injuries (e.g. cuts, scrapes, bruises, fractures, choking, pulled out hair) that can be photographed or attested to by an examining physician
- Torn clothing
- Broken fingernails
- Answering machine tapes
- Emergency number police tapes
- Diaries, letters, notes—either from the suspect or written by the victim and detailing past acts of abuse and violence
- Weapons
- Broken household items, indicating a violent incident
- Observations of neighbours, friends and family
- Statements from service providers involved in past incidents of violence
- Prior police incident reports
- Medical files detailing past injuries (used only with the permission of the victim)
- Evidence of court orders, including bail restrictions or restraining orders
- Evidence of alcohol and/or drug abuse by the offender

- Criminal record/history of the alleged offender and all suspects
- DNA
- Computer, Internet and text messages, and other forms of electronic evidence

In some instances, the victim may have died as a result of violence, in which case the body itself constitutes evidence.

Each item must be carefully collected, preserved and individually documented.

GOOD PRACTICE EXAMPLE

In Canada, the Royal Canadian Mounted Police has produced a pocket “Investigator’s Guide to Forensic Evidence” for use by all officers working in the field. This reference guide lists 16 of the most common crime scenes an officer will attend and the types of evidence most commonly found at such scenes. The guide then lists 76 of the most common forms of evidence and how each is to be collected, preserved and handled. Photographs and simple diagrams are used throughout the guide to illustrate key points and practices.

Evidence of sexual violence/rape

Acts of sexual violence, including rape, are a traumatic event for anyone to endure, including when the perpetrator is an intimate partner. All women have the right to say “no” to any sexual encounter, including when it involves a husband and takes place in the privacy of the home. Unfortunately, not all States have yet recognized rape and sexual violence within a marriage as a crime. In such cases, while there may not be a “crime” for police to investigate, there is, at the least, likely to be a need to offer some form of protection to the victim.

These investigations, and the collection of related evidence, require a great deal of sensitivity from investigators. Steps must be taken to respect the victim, her privacy and the trauma she has undergone, while minimizing the intrusion into her life.

Such acts often leave behind unique evidence for investigators, such as bite marks, saliva, blood, semen, tissue under fingernails, unique ligatures, hairs and fibres. Perpetrators may themselves collect microscopic items such as dirt, hairs or fibres from a crime scene and leave with them attached to their clothing. Collection of such evidence can be used to link a perpetrator to a particular crime scene. All such evidence may require specialized forensic examination in a laboratory.

“Forensic examination” of evidence means that scientific processes and knowledge are used to examine something for a legal purpose. Thus, “forensic evidence” is usually understood as some form of physical evidence of a crime that will undergo a scientific examination, such as blood, semen or fibres. Forensic science applies knowledge gleaned from the many disciplines of science to legal proceedings or arguments.

A good investigator must know what and how forensic science can assist in an investigation and what the current local limits of forensic science are.

When conducting an investigation, it is important that:

(a) All forensic evidence be immediately marked for future identification in court, including:

- (i) Time seized;
- (ii) From whom/by whom;
- (iii) Detailed description of the item(s);
- (iv) Manner packaged;
- (v) Time tagged and where deposited for safe storage;
- (vi) Location deposited;

(b) All evidence be separately packaged;

(c) Steps taken to prevent contamination or damage of the evidence;

(d) Continuity of possession be maintained and documented;

(e) A full written report documenting all evidence be prepared, including what forensic analysis is required of each item.

When collecting evidence for DNA analysis (e.g. bloody clothes, underwear containing semen, hairs and items with saliva), investigators should:

(a) Collect, handle and package the exhibit in a manner that retains its integrity:

- (i) Clean latex or nitrile gloves should be used when handling exhibits. If an exhibit is picked up directly with a gloved hand, the gloves should be changed subsequent to handling any other additional exhibit(s);
- (ii) To the greatest degree reasonably practical, exhibits should be packaged separately. (Remember, not to lick the envelope. If you do, you may be contaminating the exhibit with your own DNA!);
- (iii) Damp objects such as soiled tissues, stained undergarments and bloody clothes should be placed individually in a paper bag or envelope (one item per bag);
- (iv) Very wet items, such as bloodstained clothing or bedding, must be thoroughly dried before packaging. Place the item temporarily into a clean plastic bag and transport to a secure and designated “drying room” facility for drying. When dry, these exhibits can be properly packaged for transportation and storage. Failure to do so may result in the biodegradable evidence rotting and thus spoiling any opportunity for DNA analysis;
- (v) Exhibits other than those mentioned in subparagraph (iv) above are to be sealed and placed in envelopes with the investigator’s initials on the flap of the envelope;
- (vi) Biodegradable exhibits, such as sexual assault kits, should be placed in a secure refrigerator until retrieved by the laboratory;

- (vii) In every case it is imperative that samples obtained from the suspect not come into contact with those from the victim or the crime scene. Whenever possible, such samples should be collected, handled, packaged and transported separately, by different investigators, to avoid contamination;
- (b) All exhibits other than those mentioned in subparagraph (a) (iv) above shall be sent to the local crime laboratory for analysis or tagged and logged into the police department property office;
- (c) Completed reports should include:
 - (i) A description of each item;
 - (ii) The location each item was seized from;
 - (iii) The circumstances of the seizure;
 - (iv) The location where the item is stored;
 - (v) The particulars of any requested analyses, including the availability of appropriate exemplars (“known” samples, e.g. a known sample of the victim’s or suspect’s blood to be used to compare with the evidence found at the scene).

One approach to the collection of evidence in the investigation of a rape or other form of sexual abuse is the use of a specific protocol and kit. Often these protocols include the provision that only women investigators and women medical personnel should collect such evidence and that this should be done in a private setting within a medical facility.

In many States, medical personnel (most often situated in hospitals) have undergone special training in the collection of forensic evidence from victims of rape and sexual assault. These practitioners often use specialized evidence collection kits and forms to document evidence found. This includes diagrams to note the injuries to a victim.

As a victim may have various forms of evidence on her clothing or body, as well as inside her body, special protocols for evidence collection are required. These include:

- Having the women undress slowly and carefully, one item at a time, while standing on a large sheet of clean paper. The paper will collect any hairs, fibres or other minute forms of evidence that may fall. Each item of clothing is carefully handed to the investigating officer for individual bagging and tagging.
- The investigating officer or medical personnel then carefully photograph (ideally in colour) and document all marks, bruises and other injuries the woman may have sustained. One approach to this is to use a generic injury diagram (see annex I for an example of such a diagram).
- Collection of any tissue from the perpetrator the victim may have collected under her fingernails by scratching him.
- In the absence of the police, medical personnel then conduct and document a thorough physical examination of the women, including noting any injuries

and evidence of sexual violence to the vagina and anus, checking all orifices for evidence of semen and the collection of such evidence. Care should also be taken to document any signs of strangulation. Collection of evidence will also include carefully combing the victim's hair (head and pubic) for any hairs left by the perpetrator.

In many countries, police and medical personnel have access to specialized sexual assault/rape evidence collection kits. Such kits usually come with a variety of sealed evidence collection containers, all for one-time use, along with evidence seals and illustrated step-by-step instructions.

GOOD PRACTICE EXAMPLE

In the United Kingdom, the London Metropolitan Police have adopted a "victim-focused" approach to rape investigation, which has included the establishment of three London "havens". The havens' services give victims access to medical treatment, forensic examination and support services while remaining anonymous. They also provide access to sexual offence investigative technique officers and help victims seek advice anonymously. Where forensic evidence from anonymous reports is established, victims can be contacted by health-care professionals informing them that there is corroborative evidence or evidence to link to other offences. This supportive process can lead to prosecutions of cases that would previously have gone unreported. Any breach of this confidential service by the police or havens would seriously undermine confidence in the havens' services and the Metropolitan Police.

Medical assistance/victim examination

One aspect of ensuring the safety of a woman who has experienced domestic violence is the quick provision of medical assistance. Ideally, medical personnel attending to a female victim, especially one who has been sexually assaulted/raped, are themselves women. This helps alleviate any discomfort the woman may experience during treatment.

In cases of domestic violence and sexual assault/rape, medical personnel can provide several services, including treatment of physical injuries, counselling or referral to counselling, and can assist with the collection and documentation of evidence of the crime. In incidents of rape, they can also address the risk of sexually transmitted diseases and HIV/AIDS transmission, including by preventive treatments, testing and counselling.

Medical personnel who assist police with evidence collection should have some level of training and direction in what to collect and how to do it, and in proper methods of documentation. In all medical examinations where forensic evidence is collected, the privacy and confidentiality of the victim is to be maintained and the only information handed over to police should be that which relates directly to evidence of the type described above.

Police will need to make a record of the name and contact information of the medical personnel involved, in case their testimony is required at trial.

Victim interviews and statements

Police conduct interviews of victims to ascertain what happened, collect evidence and help formulate measures designed to prevent further acts. Interviewing women who have been victims of violence requires care, patience and sensitivity. Some may be reluctant to give full details or hesitant to relate facts, or may attempt to withdraw their statement at some point. In addition, victims have the right to refuse to give a statement or to provide one at a later date.

Police interviews of victims may be conducted in the home, at a shelter or in a hospital, or at a police station. Regardless of the location, police are required to conduct all such interviews in a manner that respects the privacy and confidentiality of the victim.

Every police interview of a woman victimized by domestic violence should include at some point the discussion and creation of a personal safety plan for the victim (see section E below).

For women going to the police station to make a report, many feel more comfortable if someone accompanies them to the station since it is often a very difficult step for them. It is important therefore that victims are allowed to be accompanied by a confidante.

Many women are so nervous upon arrival at a police station that they have difficulty relating a narrative with a beginning, middle and end. Such situations generate stress and may cause police officers to become impatient and assume an attitude of detachment, scorn and even rudeness. To overcome such situations, police officers or volunteers on reception duty should ideally undergo gender-awareness training to treat women with respect, ascertain what matter brought them there, check whether they have any injuries and require medical treatment, and ensure that they are in a fit state to give an account of what happened.

Women are often reluctant to seek help from the police or prefer to stay anonymous when reporting because they fear that their privacy and confidentiality will not be safeguarded. They are often ashamed or embarrassed by what they have experienced, especially in cases of sexual abuse or rape. Many women also fear that their abusers will find out about the reporting and kill them, or that their families and communities will humiliate them if they find out.

Officers need to be aware that they are there to help, not to judge, and that the woman should be treated at all times without prejudice or discrimination. Interviews of victims should only be conducted once the immediate safety of the woman has been assured and any injuries have been treated.

Ideally, police stations have private, quiet areas where victim interviews can be conducted. Interrogation rooms are not appropriate places for such interviews. Areas should be close to the front reception area, but removed from public view.

A suggested approach to interviewing victims is one that follows a specific plan, such as the following:

Choose an appropriate location Depending on the situation, victims and witnesses may be more forthcoming with information if interviewed in their home as opposed to a police station. On the other hand, some women may be too afraid to speak in their home and their interviews could be conducted in a hospital or a women's shelter. Ask the woman where she feels most comfortable to provide a statement.

Determine if others will be present Ideally, an experienced and trained police officer will interview the victim.⁵⁶ A second officer may be present, as could be a person to support the victim.

In cases where violence has resulted in serious injuries, police should consider recording the interview with either audio or video equipment.

Interviews of victims should never be conducted in the presence of the attacker or in a police room designed for interrogations.

Plan the questions to be asked Before the interview, the investigator needs to plan which key questions to ask (e.g. who, what, where, when, how).

Introduction If the interview is being recorded, state the time, date and location for the record. In addition, the investigator introduces him- or herself to the victim by name.

Interview rules The investigator may consider using the following to help put the woman at ease:

- “I am here to help, not to judge or accuse.”
- “If I misunderstand something you say, please tell me. I want to know, and I want to get it right.”
- “If you don't understand something I say, please tell me and I will try again.”
- “If you feel uncomfortable at any time, please tell me or show me the ‘stop sign’ (one hand held up, palm facing the other person).”
- “Even if you think I already know something, tell me anyway.”
- “If you are not sure about an answer, please do not guess, tell me you are not sure before you say it.”

⁵⁶There is some international debate over the preferred gender of the officer who conducts the interview. Some suggest that women officers should interview women victims, while others suggest that this is sexism and that experienced officers with relevant training, regardless of gender may conduct interviews.

- “Please remember when you are describing something to me that I was not there when it happened. The more you can tell me about what happened, the more I will understand what happened.”
- “Please remember that I will not get angry or upset with you.”
- “Only talk about things that are true and really happened.”

Free narrative

This can be the most detailed and important part of the interview, where the victim discloses the most detailed information.

Ask the woman to tell you what she experienced, saw and heard in her own words. She should verbally reconstruct, in as much detail as possible, the circumstances of the incident. “I’d like you to tell me everything you remember about what happened, starting from the beginning.” Do not interrupt.

If the woman stops, ask “What happened next?” or, “You were saying that [restate the last thing she said]”. Use voice prompts to keep them talking, such as “uh huh” or “umm”.

The investigator listens to the entire story without asking any questions or interrupting. If the woman pauses, the investigator encourages her to continue (e.g. “And then what happened?”). The investigator listens, is patient and takes detailed notes.

Remember that some victims of violence or abuse may be reluctant to talk about what happened. They may have been threatened with harm, or death, by the offender.

Open questions

An open-ended question is one that is worded in such a way as to enable the individual to provide more information about any event in a way that is not leading or suggestive and does not put them under any pressure. Open-ended questions allow the person to control the flow of information and minimize the risk that the investigator may unknowingly impose their own personal view of what happened.

Here, the investigator asks specific open questions (ones that cannot be answered by “yes” or “no”). For example:

- “Tell me about ...”
- “What happened next?”
- “And then what did you see?”
- “Tell me what else you remember.”
- “And then what happened?”
- “What else did you see?”

The investigator uses these questions to clarify points covered in the free narrative, while continuing to take detailed notes of what is being said.

To avoid any confusion, and get the best possible recall, the investigator should only ask one question at a time.

Specific questions

The purpose of this stage is to clarify and extend previous answers in a non-suggestive manner. Here, the investigator asks direct, closed questions to elicit missing details or clarify key points. Ensure that the key points of who, what, where, when, how and why are covered. The investigator continues to take notes.

Avoid multiple choice questions, but if you must, limit the question to two possible answers. At a later time, repeat the question but slightly rephrase it and rearrange the questions.

If there are inconsistencies in the woman's statement, they should be addressed at the end of the interview.

Safety plan

Refer to section E below for a discussion of personal safety planning, which should be included in every interview with a woman who has experienced domestic violence.

As a part of safety planning (which includes physical and psychological safety), police can use this phase of the interview to refer the woman to additional services/assistance, such as health care, counselling or some form of social assistance.

Conclusion

At the conclusion of the interview, when the investigator believes he or she has obtained all possible information, he or she should ask questions such as "Is there anything else about this incident that you think I should know?" or, "What else do you know that I didn't ask about?"

Ask if the person being interviewed has any questions. If so, answer them to the best of your ability. Advise them that they might be re-interviewed at a later date.

Explain what will happen next, but do not make any promises.

Thank the woman for her assistance and cooperation.⁵⁷

It is important to remember that the woman is a victim, not a suspect, and is therefore not subjected to methods police might use in an interrogation.

⁵⁷Adopted from Mark W. LaLonde, Yvon Dandurand and Siegliende Malmberg, *Commercial Sexual Exploitation of Children: Police Training Manual and Training of Trainers* (Viet Nam, United Nations Children's Fund, 2007).

Some police jurisdictions have victims, especially those who have suffered extreme injuries, provide a signed or sworn statement. If the victim, out of fear or other concerns, recants her initial statement at trial, this signed or sworn statement may be accepted as evidence in some States. Additionally, if the woman disappears or is subsequently killed, depending on national laws, this statement may again be accepted as evidence at trial.

Tips for talking with children

Given their age and the trauma they may have endured as witnesses to violence, children require great care and sensitivity on the part of police when being interviewed.

Children are not small adults. They experience events, think, speak and behave in their own manner, in a way that reflects their age and evolving capacities. If we want children to be able to participate in a meaningful manner in justice processes and to be protected from further harm, we need to adapt our language and behaviour when communicating with them.

Investigators are encouraged always to use simple language, taking into consideration the age, apparent maturity and intellectual development of the child in front of them, and to check if the child really understands every word they use.

Avoid	Use
<ul style="list-style-type: none"> • Long sentences • Complicated sentences • The passive voice (“Was she hit by the man?”) • Negative sentences (“Didn’t you tell somebody?”) • Questions with more than one meaning • Double negatives (“Didn’t your mother tell you not to go out?”) • Hypothetical situations (“If you are tired, tell me”)^a 	<ul style="list-style-type: none"> • Short sentences • Simple sentences • The active voice (“Did the man hit her?”) • Positive/leading sentences (“Did you tell somebody?”) • Questions with only one meaning • Single negatives (“Did your mother tell you not to go out?”) • Direct approach (“Are you tired?”)^a

^aAdapted from Mark W. LaLonde, Yvon Dandurand and Siegliende Malmberg, *Commercial Sexual Exploitation of Children: Police Training Manual and Training of Trainers*, (Viet Nam, United Nations Children’s Fund, 2007).

Body language should also be taken into consideration by the investigator, including:

- Make sure to avoid frowning, which shows negative judgement.
- Adopt interested and good eye-contact and bring yourself down to the eye-level of the child.
- Avoid tense body postures. Remember that the posture you adopt will automatically evoke a certain response from the child.

When questioning a child, especially a younger child (e.g. under 10 years), investigators are encouraged to follow the guidelines below:

- Take some time to first build rapport with the child and make them feel comfortable before asking questions about the incident.
- Assure the child that they are not in trouble because they are talking to the police, and that they will not get anybody in trouble.
- Assure the child that police officers talk with lots of children about things like this.
- Assure the child that he or she is not alone.
- Be respectful, attentive, sympathetic, calm and patient.
- Show your encouragement through body language, facial expression and voice.
- Conduct the interview in a place where the child feels comfortable and safe.
- Sit at their level—make eye contact.
- Use their name frequently, and introduce yourself by name, not title or rank.
- Keep questions short and simple, with age-appropriate language.
- Never assume that the child understands the question and language that you use.
- Remember that children may not be used to giving free-narrative accounts (telling their story all at once, without interruption) to adults, and may be more used to answering specific questions.
- If a child can't provide a free-narrative account, remember that this may be due to fear or embarrassment.
- Remember that even children who are unafraid or not shy may only give a very brief free-narrative account.
- Remember that children, given the development of memory and language, will often give accounts with key information missing.
- Research indicates that children may remember central information well, but not peripheral information.
- Don't rush them.
- Avoid repeating a question. Instead, rephrase it.
- Good questions are simple, specific, clear and directly related to the purpose of the interview.
- Avoid asking "why?" as this is often perceived as blaming and can lead to a defensive response.
- Check if the child understands the question. If unsure, ask them to paraphrase the question to you or ask them what they think the question means.
- Pay close attention to the facial expression and body language of the child for signs of confusion or tiring.
- Ask "Tell me more about that".

- Stay calm, with an even and soft tone of voice.
- Be relaxed and informal.
- Honour the child's loyalty to an abusive parent. Do not criticize, demean or judge a parent.
- Acknowledge a child's right not to speak. Do not make them talk if they are not comfortable doing so.
- Offer the child an opportunity to say anything else that has not been asked yet.
- Don't make promises you cannot keep.
- Reassure the child that the arrested parent is safe and OK.
- Close all interviews by asking if the child has any questions of you, and then thanking the child for their help.⁵⁸

Successful interviews of children, especially those who are frightened or traumatized by what they have witnessed or suffered, require patience and care. Investigators who specialize in working with such children are encouraged to seek additional training, practice and skill development, as suggested in the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime of 2005. In addition a model law, handbook and online training package are being developed by the United Nations Children's Fund, UNODC and the International Bureau for Children's Rights in line with the Guidelines and are available on the UNODC website (www.unodc.org/unodc/en/frontpage/unodc-and-unicef-partner-to-help-child-victims-.html).

Documentation: notes, photographs, report and court brief

Police investigations are documented through the taking of notes, photographs and the collection of evidence such as suspect, victim and witness statements.

A good police investigator will maintain a daily notebook that thoroughly documents each and every investigation. In an investigator's notebook, good notes are:

- Clear
- Complete
- Concise
- Correct

Police notes are used:

- As an aid to a good investigation
- To write reports that thoroughly document an investigation
- As an aid to giving good testimony in court
- To reflect an investigator's professionalism and level of accountability

⁵⁸Canada, Department of Justice and Royal Canadian Mounted Police, *A Handbook for Police Responding to Domestic Violence* (London, Ontario, Centre for Children and Families in the Justice System of the London Family Court Clinic, 2004), p. 14.

When conducting an investigation, officers may need to make notes of the following:

<i>Category</i>	<i>Sample questions</i>
Who	<ul style="list-style-type: none"> • was the complainant/victim? • made the report? • discovered the offence? • saw or heard something of importance? • had a motive for committing the offence? • committed the offence? • helped the offender? • was interviewed? • worked on the case? • marked the evidence? • received the evidence?
What	<ul style="list-style-type: none"> • type of offence was committed? • actions were taken by the suspect and using what methods? • do the witnesses know about it? • evidence was obtained? • was done with the evidence? • tools or weapons were used? • actions did you take? • further action is needed? • other agencies were notified?
Where	<ul style="list-style-type: none"> • was the offence committed? • were the tools or weapons found? • was the suspect seen? • were the witnesses? • was the offence discovered? • does the offender live or frequently go? • is the offender? • would the offender be most likely to go? • was the offender located/apprehended? • was the evidence marked? • was the evidence stored?
When	<ul style="list-style-type: none"> • was the offence committed? • was the offence reported? • did you arrive? • did you contact witnesses? • was the offender located/apprehended? • did help arrive?
How	<ul style="list-style-type: none"> • was the offence committed? • did the offender get to and from the scene? • did the offender obtain information needed to commit the offence? • were the tools or weapons obtained? • did you get your information regarding the offence?

<i>Category</i>	<i>Sample questions</i>
Why	<ul style="list-style-type: none"> • was the offence committed? • were particular tools or weapons used? • was the offence reported? • were witnesses reluctant to talk? • was the witness eager to point out the offender? • was there a delay in reporting the offence?
With whom	<ul style="list-style-type: none"> • does the offender associate? • are the witnesses connected? • do you expect to locate the suspect?
How much	<ul style="list-style-type: none"> • knowledge was necessary to commit the offence? • damage was done? • property was taken, if any? • trouble was it to carry the property away? • information are the witnesses withholding? • is the complainant/victim withholding? • additional information do you need to help clear the offence?^a

^aBased on C. R. Swanson, Neil C. Chamelin and Leonard Territo, *Criminal Investigation*, 6th ed. (New York, McGraw-Hill 1996), pp. 169-171.

Note-taking should be a constant activity throughout the process of the investigation; everything learned during its course should be written down. The inexperienced investigator will have a tendency simply to record the basic facts of the case and indicate those steps that yielded positive results. However, even those elements of the investigation that were examined but failed to yield useful information should be recorded. The purpose of this is to establish the completeness of the investigation, which, in turn, may reveal that additional investigation in a particular area may not be profitable.

Notes can be supported by sketches, where appropriate, of the crime scene. In crime scenes, there are two forms of sketches used to document a scene:

- A rough sketch made in an investigator's notebook
- A formal scale diagram that includes accurate measurements

Benefits of a well-drawn formal crime scene sketch include:

- Presenting an accurate description of the crime scene
- Acting as a witness memory aid (enhances the investigator's professionalism)
- Making a favourable impression on the court

A rough sketch in an officer's notebook should illustrate the scene (e.g. a room, a series of rooms or an outdoor area where a weapon was located). One page can be a diagram of the scene, with numbers used to identify key items (e.g. a body or physical evidence). Another page in the investigator's notebook can list the numbers and give corresponding item descriptions/titles. Similar to a map, this second page is the "legend" for the diagram.

A formal scale diagram includes accurate measurements that are done with a tape measure to ensure accuracy. A formal scale diagram will resemble a set of builder's plans or an architectural plan.

Similarly, photographs can be used to document the scene, as well as any injuries the victim may have suffered. Crime scene photographs serve two purposes:

(a) The first purpose is to record the overall crime scene, which includes photographs of the exterior and interior of the building and/or scene; the entry, passage and exit routes taken by the suspect; and physical evidence found at the crime scene;

(b) The second purpose of crime scene photographs is to record forensic evidence that can be used to reconstruct the crime and establish the identity of the suspect(s). Evidence such as magnified images of weapons, fingerprints and tool marks are examples of this type of photograph.

When documenting a scene with photographs, investigators must remember that they are in essence telling a story with images and that these images will be viewed by persons who did not attend the scene. Thus, images must not only document the scene and related evidence, but also provide the larger context.

Investigators documenting a scene with photographs should take pictures from three distances:

(a) Far away, and from multiple angles (sets the scene, provides scale and larger context, places the scene in context);

(b) Middle distance;

(c) Close-up (illustrates the evidence, where it was found, the form of it and the condition it was found in).

Distances for each of these will vary, depending on the scene and the crime. Close-up photographs should have something, such as a ruler, included in order to provide scale.

It is the final written report that brings all these facets of the investigation into one document. The written report is read by police supervisors and senior staff, prosecutors and sometimes the courts and Government. A well-written report reflects positively on the investigator. Similarly, a poorly written report can create problems for the investigator, for subsequent investigators involved in the case and for those personally affected by the crime. As in the adage "Many a good game was left on the practice field", it is also true that many excellent investigations are reduced to virtually meaningless exercises because of inadequate documentation.

Similar to an investigator's notes, the written report should clearly and thoroughly document:

- What happened
- Who was involved (suspect, victim, witnesses, investigators)

- When it happened
- Where it happened
- Why it happened⁵⁹
- How it happened
- What evidence was collected, by whom, how and what was done with it

In writing the report of an incident, the investigator should take into account:

- The purpose of the report
- Who will be reading the report
- What their specific needs will be

Keeping these three points in mind will help the investigator craft the report and its content to meet the needs of the user(s) of the report.

Good police reports are:

- Factual
- Accurate
- Objective, fair and impartial
- Complete
- Concise
- Thorough
- Clear
- Properly organized
- Contain conclusions and recommendations based on facts

When describing an incident of domestic violence, the report should contain victim and witness statements, details of any injuries, weapons, pertinent facts, information on risk factors specific to the woman involved that may lead to future violence and recommendations for further police or social service agency action.

Essential elements of a good police report include the investigator not only considering the needs of those who will read the report, but also asking a series of questions relating to the investigation and what must be recorded to thoroughly document a crime and the police investigation. In incidents of domestic violence, questions must also focus on factors affecting any future risk the woman involved may face.

⁵⁹Investigators are cautioned that the “why” of an incident can be a very sensitive issue and asking “why” may be construed as an attempt to blame the victim for the violence that took place.

Question	Information required
Who are involved in the investigation, and how can they be contacted?	<ul style="list-style-type: none"> • Police file/incident number • Suspect • Complainant/victim • Witness(es) • Initial investigator(s) • Follow-up investigator(s) • Police victim service workers
What took place?	<ul style="list-style-type: none"> • What offence was committed? • What is the relationship of the victim to the suspect? • What, specifically, are the injuries? • What evidence was obtained and by whom? • What was the disposition of the evidence? • What action did you take? • What further action is required? • What information can the witnesses provide?
When did each event documented in the report occur?	<ul style="list-style-type: none"> • Time (start and end) • Date • Day of the week
Where did each event documented in the report occur?	<ul style="list-style-type: none"> • Where precisely did the offence occur? • Were all involved victims/witnesses interviewed and formal statements taken? • Was the suspect interrogated? • Were any weapons used and, if so, where were they seized by the police? • Where was the evidence of the offence found? • Where is the evidence now? • Where was the suspect located/apprehended? • Where is the suspect now? • Where were the witnesses? • Where are the witnesses now? • Where was the complainant/victim? • Where is the complainant/victim now? • History of violence involving the suspect and/or the victim • Police history of the suspect • History of court and/or restraining orders
Why did the event occur?	<ul style="list-style-type: none"> • If applicable, why was this offence not reported immediately? • If applicable, why are the victim and/or witnesses reluctant to come forward? • If applicable, why are the victim and/or witnesses eager to incriminate (or not to incriminate) someone? • Why was this method used to commit the offence?
Victim safety	<ul style="list-style-type: none"> • Steps taken to ensure victim safety, including creation of a personal safety plan, referral to a shelter or completion of a police risk/threat assessment form • If applicable, steps taken to ensure the safety of children

Question	Information required
How did the incident occur?	<ul style="list-style-type: none"> • How was the offence committed? • How did the suspect behave? • How did the complainant/victim behave?^a

^aBased on Canada, Justice Institute of British Columbia, Police Academy, *Investigation and Patrol Manual*, 2004, pp. 11-13.

Depending on the police agency, the investigation report may be used as the court brief or investigators may have to compile a separate document for the prosecution. A court brief can include a full and detailed narrative of the event and subsequent investigation, a transcription of all oral victim, witness and suspect statements, details of all evidence collected and by whom, and copies attached of all written victim, witness and suspect statements.

The report may also contain details of the suspect's criminal history and copies of any related court orders, bail conditions or restraining orders. If one was completed, a copy of the risk/threat assessment form should also be attached as it will be considered in any bail or release hearing.

In common law States, there may be a legal requirement that a complete copy of the police report be disclosed to the defence counsel. If so, this is often done through the office of the prosecutor.

GOOD PRACTICE EXAMPLE

The Royal Canadian Mounted Police, in British Columbia (Canada), has developed a *Domestic Violence Investigation Guide*, which in part directs the gathering of information for a risk assessment and for the report to the prosecution. This information is intended to assist with the bail hearing by providing relevant information to the courts and to assist in identifying risk factors that may put the victim at further risk of violence. The information collected relates to both the suspect and the victim and in part includes full details on:

- Suspect's criminal history of violence
- Suspect's previous history of domestic violence
- Court orders pertaining to the suspect and any history of violating such orders
- Suspect's history of alcohol/drug abuse
- Suspect's history of employment instability or financial problems
- Suspect's history of mental illness
- Suspect's history of attempted or threatened suicide
- Suspect's access to, use of or threat to use weapons
- Victim's perception of personal safety
- Victim's perception of future violence, or risk of violence
- Current status of the domestic relationship (e.g. pending divorce)
- History of escalation of abuse/violence in the relationship
- If children are involved, have been or could be exposed to violence
- History of threats by the suspect to the victim, her family, friends or co-workers or a pet

- History of suspect forcing sex on the victim
- History of suspect displaying jealous behaviours, stalking or harassment of the victim or a previous partner
- Other information that may be relevant (e.g. is the victim socially or geographically isolated, unwilling to leave the home, does not speak the local language (a recent immigrant), have some form of disability, etc.?)

Presentation of evidence at trial

There is variance between States in how prosecution takes place within the criminal justice system.

In some States, police may act as a local magistrate and hear applications for bail, or preside over the first appearance of an offender. In others, an investigating officer may present evidence at the first appearance of an offender where bail is decided.

In most States, the police are required to attend the trial of the offender and present evidence. Here, investigating officers will relate their actions, what they saw and who they spoke to, and will present to the court any physical evidence (i.e. notes, weapons, bloody clothing) they may have seized as a part of their investigation.

At trial, the role of the police is most often to objectively present the facts found during their investigation. In fact, the police are presented as a witness for the prosecution. The accurate presentation of evidence by the police is greatly assisted by the prior taking of detailed notes of all actions, evidence, observations, statements and so on. Poor notes often lead to poor testimony at trial.

The police often have a role to play at trial in arranging for the presence and protection of the victim and other witnesses.

GOOD PRACTICE EXAMPLES

With the assistance of the United Nations Mission in Liberia (UNMIL) and the United Nations Children's Fund, the Liberian National Police has established women and children protection units in all 15 counties of the country, which focus on the investigation of and response to the victimization of women and children.⁹ A similar unit has been created at the headquarters of the Rwanda National Police. Such units highlight the special importance attached to the issue of the protection of women and children by the respective Governments, and thus encourage enhanced action and services from all sectors of the criminal justice system.

⁹See www.un.org/News/Press/docs/2009/wom1748.doc.htm.

E. Threat assessment and risk management

In the Model Strategies, Member States are urged, in paragraph 7 (*h*), to adopt measures that can be taken when necessary to ensure the safety of victims and their families and to protect them from intimidation and retaliation. States are further urged, in paragraph 8 (*c*), to ensure that police procedures, including decisions on the arrest, detention and terms of any form of release of the perpetrator, take into account the need for the safety of the victim and others related through family, socially or otherwise, and that these procedures also prevent further acts of violence.

There are many things police can do to address the safety needs of women who are victims of domestic violence, including mitigating the risk of future violence. Measures include:

- Seeking court protection orders, no-contact orders and so on
- Working with victims to identify risk factors and create a personalized safety plan
- Referring or escorting women to shelters
- Adoption of a mandatory arrest policy in all cases of alleged or suspected domestic violence
- Requesting, as necessary, strict release conditions for offenders, including curfews, no-contact orders, abstinence from alcohol, prohibition from weapons and seeking and attending counselling
- Monitoring and enforcement of bail/release conditions and post-trial release conditions
- Notification of victims prior to release of an offender
- Conducting risk assessments and enacting threat management plans to mitigate the risk of future attacks
- Investigating reports of threats received by women

When setting out to assess and manage the threat faced by a woman in the context of domestic violence, it is important for police to remember that each circumstance is unique and thus does not easily lend itself to a simple or formulaic response. The complexities and subtle nuances of each threat require an individualized response that best meets the needs of the woman involved.

Another approach to victim protection is domestic violence shelters. These exist in many States and are often operated either by local government or NGOs, providing safe accommodation for women who have experienced domestic violence and their children. Shelters commonly provide on-site counselling, victim support, legal assistance and other services victims may need.

As mentioned, one approach is to work with the woman to identify risk factors and create a personalized safety plan. Such plans can be created in partnership with the

woman by victim service workers, shelter staff, counsellors or police. Plans focus on risk identification and mitigation, and can include multi-agency supports and responses, such as police, counsellors, courts, bail supervisors and health-care providers. They include a systematic review of all facts that affect (positively and negatively) a woman's safety and are tailored to the unique circumstances and needs of the particular woman involved.

Safety plans are preventive, not predictive tools. They are designed to reduce danger and enhance safety, not to forecast the likelihood of future violence or if such violence may escalate and become lethal.

In creating a safety plan, professionals are reminded that the woman involved is the expert on her life, and her risks, and "owns" the plan. The role of the professional is to facilitate a process whereby a plan is created with, not for, the victim.

Information to assist in the development of the plan may come from many diverse sources, often with no one agency having all the relevant information. As it contains sensitive, personal information, its confidentiality needs to be respected and guarded, with access restricted to those most closely involved in the ongoing protection of the woman.

Suggested steps in the development of a personal safety plan, in cooperation and collaboration with the woman involved, include:

- Initial discussion of the purpose and role of the plan, including its limitations
- Gathering of information, including safety support factors (sources of assistance, forms of assistance) and abuser factors that relate to risk, noting that diverse sources of information may have to be consulted
- Work to create a safety plan, including specific strategies that enhance support and seek to mitigate risks, including steps such as justice system supervision of the abuser, interventions for the abused, how to enhance the physical safety of the woman (i.e. relocation, new phone number, steps that address safety at home, at work and in the community, for both the woman and her children)
- Note the priority of actions and next steps, including those requiring immediate action, and ongoing review of the plan.⁶⁰

In creating a personal safety plan, in the second step above, considering safety support factors, can include:

- Level of personal support available to the woman
- Her personal living situation
- Level of fear

⁶⁰Based on Canada, British Columbia Institute Against Family Violence, *Aid to Safety Assessment and Planning (ASAP) Manual* (Vancouver, 2006).

- Barriers to safety created by personal attitudes and beliefs, and the attitudes and beliefs of the extended family, community or culture
- Health impacts of the abuse
- Employment status or financial problems
- Child-related concerns
- Personal substance use/abuse issues (alcohol and/or drugs, both licit and illicit)
- Access to and availability of local services and their responsiveness to the needs of the victim
- Access to and availability of needed information
- Coordination of support services

Offender factors, which may increase the risk of future violence, to be taken into consideration can include:

- History of violence (physical and sexual)
- Violent threats, ideation, intent⁶¹
- Escalation of physical/sexual violence or threats
- Violations of civil and criminal court orders
- Negative attitudes
- Other criminality
- Access to weapons, such as firearms
- Responses to shifts in power and control dynamics
- Employment status or financial problems
- Substance use/abuse (alcohol and/or drugs, both licit and illicit)
- Mental health problems
- Other considerations specific to the case⁶⁰

Each factor can be expanded upon and probed in detail by the woman and the professional working with her. The plan will include an assessment of risks and victim needs, identification of resources the woman can access to enhance her personal safety and then prioritization of the next steps.

A completed plan must be flexible and thus adaptable to evolving circumstances and risk factors. It must also accommodate the diverse reality of each woman involved and include a realistic assessment of both the risk and the protective services available (i.e. expected responses from police and courts). In the creation of the plan, attention needs to be given to identifying factors that may trigger a review of the plan (e.g. offender making new threats or disobeying bail conditions).

⁶¹“Threats” are something the perpetrator says that indicate his intent to cause physical harm to the woman. “Ideation” means thoughts, urges and fantasies about causing physical harm to others, while “intent” is an expression of a desire or plan to cause harm to others.

In the initial time of crisis, or when a woman first enters a shelter, time is needed before anxiety, fear and stress levels are sufficiently reduced to focus on the creation of a personal safety plan.

Personal safety plans do not solve local or regional problems related to insufficient protective and support resources, nor do they overcome barriers that may exist to a coordinated response from police, health-care and other agencies/resources to meet the unique needs of the woman involved.

Safety plans help to identify and mitigate risks of future violence and identify strategies to enhance the safety of women. However, they do not predict future violence. There are additional tools that can be used to predict future threats, assess them and manage their potential risk. These are most often used by police or others specially trained in their use.

“Risk” is the chance of something happening, while “threat” represents the negative act that may occur. Risk is often defined as the probability of an event multiplied by its harmful consequences and can also be viewed as the expectation that a threat may succeed and that potential injury can occur. If the potential exists for a victim of domestic violence to be further threatened or harmed, then there is a level of risk. The challenge lies in identifying, analysing, validating, evaluating and quantifying the risk(s). Risk is contextual and dynamic and exists along a continuum of probability.⁶²

Threat assessment documents, plans and scoring matrixes are designed to be an aid to police decision-making, not to identify a tangible, absolute measurement of risk relative to any other circumstance. Nor are they meant to be inflexible, absolute guides. Rather, they are guides for decision-making and should include constant monitoring and flexibility to meet the unique needs of each situation.

According to one group of experts, threat assessment is a set of investigative and operational activities designed to identify, assess and manage persons who may pose a threat of violence to identifiable targets.⁶³ These investigations involve analysis of a subject’s behaviour and examination of patterns of conduct that may result in an attack on a particular target or targets.⁶⁴

For the most part, law enforcement investigations of violent crime take place after the crime has occurred. Only in recent years, and mostly from American sources, has attention begun to be paid to identifying risk and assessing the level of threat posed by violent attackers.⁶⁵ This shift has been driven largely by advances in domestic violence and criminal harassment legislation and also work done on targeted attacks upon protected persons.

⁶²Randy Borum and others, “Threat assessment: defining an approach for evaluating risk of targeted violence”, *Behavioral Sciences and the Law*, vol. 17, No. 3 (1999), pp. 323-337.

⁶³Robert A. Fein, Bryan Vossekuil and Gwen A. Holden, “Threat assessment: an approach to prevent targeted violence”, *National Institute of Justice: Research in Action*, July 1995.

⁶⁴Ibid.

⁶⁵Robert A. Fein and Bryan Vossekuil, “Preventing attacks on public officials and public figures: a secret service perspective”, *The Psychology of Stalking: Clinical and Forensic Perspectives*, J. Reid Meloy, ed. (San Diego, California, Academic Press, 1998), pp. 176-191.

The predictive capacity of threat assessment models is not absolute. Tools that quantify a risk level, for example using a scale of 1 to 10, often offer a simplistic assessment of risk that fails to take into account the subtleties and dynamic nature of the unique threat.

GOOD PRACTICE EXAMPLE

The Government of British Columbia (Canada) widely distributes free wallet-sized cards with safety planning tips. Designed for use by women who are victims of domestic violence, the cards list 10 tips for increasing personal safety and provide a toll-free telephone number to a 24-hour victim information hotline.

Models used to assess the level of risk posed and the likelihood of the threat in cases of domestic violence often focus on:

- The severity and frequency of past violence (includes escalation in the nature/form of the violence and experience of the victim with the perpetrator, including behaviours such as stalking or sexual assault/rape, and additional incidents the perpetrator may have been involved in).
- Factors related to the victim (i.e. disability, pregnancy or nursing, isolation from or attachment to the perpetrator and family, financial dependence on the perpetrator, recent separation from the perpetrator, cultural issues and sensitivities, etc.).
- Factors related to the perpetrator, such as his personal history with spousal violence (i.e. childhood history as a victim or witness, history as an abuser), violation of court orders, history of other forms of violence, attitudes towards domestic violence and details of his psychological and social functioning (i.e. other serious criminal behaviours, relational problems, employment and financial problems, substance abuse and mental disorder).⁶⁶

Risk management strategies include monitoring and supervision of offender release conditions, offender treatment services and plans, and victim safety planning.

Regardless of the tool or approach used, as the first line of victim protection, police are required to check in with the victim on a continuing basis to ensure her ongoing safety and to determine if there has been any fundamental change in her circumstances, or those of the perpetrator, that may in some way affect her safety and the mitigation of future violence.

Predictive models are used to gauge the level of risk and the likelihood of a threat becoming reality. From this information, police can attempt to manage the risk by removing it (detaining the suspect), avoiding the risk (rehousing the victim in a new

⁶⁶Based on United Kingdom, London Metropolitan Police, *MPS Risk Assessment Model for Domestic Violence* (2003). Available from www.met.police.uk/csu/pdfs/Appendix III.pdf; P. Randall Kropp, Stephen D. Hart and Henrik Belfrage, "Structuring judgments about spousal violence risk and lethality: a decision support tool for criminal justice professionals", *Just Research*, vol. 13, 2005. Available from www.justice.gc.ca/eng/pi/rs/rep-rap/jr/jr13/p5c.html.

home or shelter), reducing the risk (victim safety planning, protective court orders), or accepting the risk (multi-agency planning, perpetrator monitoring by police, courts and corrections agencies).⁶⁷

In planning for the safety of a victim of domestic violence or assessing future risk, police are reminded that the extended family, friends and work colleagues of both the victim and perpetrator may also be at risk of future violence. Police are encouraged to consider this possibility in their planning and responses.

GOOD PRACTICE EXAMPLE

The *Aid to Safety Assessment and Planning (ASAP) Manual* was published in 2006 by the British Columbia Institute against Family Violence (Canada) as a set of guidelines and a tool to help reduce the risk of violence towards women in relationships, by supporting workers to assist the woman involved to make a safety assessment and develop a personalized plan. ASAP is based on the premise that a strategy for consistency in assessing the risk that the abuser poses and in planning for women's safety will increase their safety overall. Safety planning is a complex process and the ASAP guidelines reflect the best information available from practice and research to address the range of women's safety needs. While use of the guide helps facilitate a thorough approach, it should not be used as a substitute for critical thinking and analysis of the unique circumstances of each case.

GOOD PRACTICE EXAMPLE

In Alberta (Canada), the provincial government has established a domestic violence threat assessment unit that involves academic specialists, family law experts, child intervention case workers, police and prosecutors. The Alberta Relationship Threat Assessment and Management Initiative coordinates the efforts of justice officials, along with community organizations, to more effectively address threats posed in violent, high-risk relationships and stalking situations. The initiative further serves as a resource to police across the province, as well as to women's shelters, corrections officials, mental health workers and communities.^a

^aSee p. 161.

GOOD PRACTICE EXAMPLES

For a comprehensive review of existing risk assessment tools, see:

1. *Brief Spousal Assault Form for the Evaluation of Risk (B-SAFER)*. This tool, developed by P. Randall Kropp, Stephen D. Hart and Henrik Belfrage, is a checklist or guide for assessing risk for spousal assault in criminal and civil justice (i.e. forensic) settings. The B-SAFER is intended to help people exercise their professional discretion when conducting risk assessments; it is not a replacement for professional discretion. Its purpose is to introduce a systematic, standardized and practically useful framework for gathering and considering information when making decisions about violence risk. It draws directly on the scientific and professional literatures on spousal violence risk assessment and victim safety planning.

⁶⁷See. *MPS Risk Assessment Model ...*

2. *Ontario Domestic Assault Risk Assessment (ODARA)*. ODARA is a general violence-screening tool dealing with recidivism. It does not concern itself specifically with the question of lethality. The form contains 13 questions where “yes” answers are given a one-point score. If a person scores between 7 and 13, it is suggested there is a 70 per cent risk that the individual may commit another assault. This tool may be of great value as a general violence screening to raise “red flags” for the potential of a victim being at risk of future violence.

3. *Danger Assessment Instrument*. DA-2 was developed by Jacquelyn C. Campbell, School of Nursing, Johns Hopkins University, United States. Her instrument first asks the victim to record specific examples of abuse on a calendar. The instrument then poses 20 questions on lethality requiring a “yes/no” answer. It establishes a pattern of frequency and severity of the violence during the past year and serves as an important safety planning tool, especially for victims who often minimize their level of risk.^a

4. *MPS Domestic Violence Risk Assessment Model (2003)*, developed by the London Metropolitan Police. Available online, this tool is used as an aide-memoire by police responding to and investigating incidents of domestic violence. It is seen as an innovative victim-led intelligence approach used to help prioritize workloads and demands placed on investigators such that victims at risk of further violence may be better protected.^b

^aAvailable from www.dangerassessment.org/WebApplication1/default.aspx. Canada, Alberta Justice Communications, *Domestic Violence Handbook for Police and Crown Prosecutors in Alberta*, 2008, p. 95 to p. 159.

^bUnited Kingdom, London Metropolitan Police, *MPS Risk Assessment Model for Domestic Violence (2003)*. Available from www.met.police.uk/csu/pdfs/AppendixIII.pdf.

F. Victim services and witness protection

Victim services, and the protection of both victims and witnesses, begins as the police investigation begins and continues through all stages of an investigation. Paying attention to the needs of victims and witnesses includes ensuring the immediate safety of all involved, listening and building rapport with victims and witnesses, and taking steps to assess the risk of future violence to victims and witnesses. Police, however, are not the only ones with a role to play here.

It is common nowadays for specialized, trained victim service workers (some of whom may be community volunteers) to offer various forms of aid to victims of domestic violence. Such workers may be attached to the police and respond to a scene when summoned by the police, or they may work through the courts and offer assistance before, during and after a trial. They may assist with referrals to additional services, such as specialized health care, counselling, financial assistance or financial compensation, where available. Some may assist with personal safety planning or being available to victims to answer questions about the progress of the police investigation, laying of charges, inquiries about the trial and related processes, or if and when the perpetrator is to be released from detention or prison.

Women who are victims of domestic violence often face ongoing threats, intimidation and violence and so require protective measures from the criminal justice system to help enhance their personal safety and that of their children.

In some legal systems, victims may require assistance in seeking and filing court orders to restrain a perpetrator. As many women may not fully know their legal rights, the presence of legal aid services can assist in enhancing their personal safety. In other jurisdictions, the police or courts may assist the women in seeking protective measures.

Paragraph 7 (g) of the Model Strategies urges Member States to ensure that courts, subject to the constitution of their State, have the authority to issue protection and restraining orders in cases of violence against women, including removal of the perpetrator from the domicile, prohibiting further contact with the victim and other affected parties, inside and outside the domicile, and to impose penalties for breaches of those orders.

Typically, such court orders can be either criminal or civil, and the standard of proof required to obtain an order is lower than that needed for a criminal conviction. Breach of an order, even if it is civil, is most often a criminal offence. Orders can take the form of peace bonds, bail restrictions or restraining orders, have varying durations and place different conditions upon the perpetrator.

Paragraph 7 (i) of the Model Strategies urges Member States to ensure that the safety risks of the woman victim are taken into account in decisions concerning non-custodial or quasi-custodial sentences, the granting of bail, conditional release, parole or probation relating to the perpetrator.

Such court orders can be used to protect both victims and witnesses from perpetrators. All require ongoing monitoring by the police and evaluation of their effectiveness.

Depending on the community and State, there may be additional services and measures, such as those supplied by NGOs, civil society, women's agencies and shelters, and religious or cultural groups. Police are encouraged to familiarize themselves with such services and providers and how to gain access to them.

GOOD PRACTICE EXAMPLE

There are a number of models of sexual assault referral centres with many countries having hospital-based provision or else a community-based option located close to a partner hospital (e.g. Australia). Some countries, such as Canada, have extensive networks (although unevenly distributed), while others, such as Germany, Kenya, Switzerland and the United Kingdom, have a number of centres, often in major cities or locations where either women's groups or committed medical staff have campaigned to improve local provision. Still others have single "centres of excellence" (Denmark, Iceland, Ireland and Sweden). These centres aim to provide a high standard of comprehensive care to anyone who has experienced recent sexual assault, including women who have been attacked by somebody they are intimate with, such as a husband. Many offer 24-hour service, utilizing women staff, and provide forensic examinations to aid police investigations and collection of evidence.

Recognizing the link between rape and HIV/AIDS transmission, many centres meeting the needs of women who have been raped offer preventive treatment within 72 hours of the attack, along with testing and counselling services.

GOOD PRACTICE EXAMPLE

In Vancouver (Canada), an NGO serving minority and immigrant communities has worked with a variety of groups to produce and distribute a DVD aimed at helping women, children and seniors understand and escape abuse within the home. Released in three languages (Mandarin, Punjabi and Spanish, with English subtitles), by the Vancouver and Lower Mainland Multicultural Family Support Services Society, the DVD depicts a series of culturally specific scenarios involving violence within the home, including child abuse, domestic violence and elder abuse.

G. Responding to offenders

Offenders—as are victims—are guaranteed certain rights. These include the right to be treated with respect and dignity by police, to be told at once of the reason for arrest/detention, to be presumed innocent, to be protected from undue violence perpetrated by the State (i.e. abusive police practices), not to incriminate themselves, to privacy and confidentiality, access to legal counsel, to appeal any detention order and to a fair trial.

In many States, police are required by law to advise persons arrested of the reason for the arrest, their right to counsel and the right to silence, and to do so immediately upon arrest or detention. Such practice is also in accordance with principle 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment of 1988, which states that anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.⁶⁸

All persons arrested for domestic violence should be immediately taken to the police lock-up, unless they require medical attention, where all should be interrogated by police. This helps collect further evidence of the crime and signifies to the offender that the police take the matter seriously.

As a part of their court brief, it is suggested that police, when appropriate, request strict release (i.e. bail) conditions that require the offender to stay away from the victim—and witnesses—including home, work and the victim's extended family, and that these conditions be closely supervised. Additional conditions may include not possessing weapons, abstaining from alcohol and reporting regularly to the police or a bail supervisor. Some jurisdictions will release offenders in domestic violence cases to designated half-way houses or only if they are fitted with an electronic monitoring anklet that will notify authorities if they are outside a specific home or boundary.

It is important to bear in mind that the effectiveness of victim protection measures will be increased if consideration is given to the rights of those accused of violence and their support needs. As such, it is recommended that measures to restrain

⁶⁸General Assembly resolution 43/173, annex.

offenders and remove them from their home be accompanied by arrangements to ensure that the perpetrators are not left without shelter or assistance. This assumes that the police agency involved does not have a mandatory arrest policy in cases of domestic violence or that the offender has been released from custody on some form of bond or bail.

In instances where offenders are released, they should be advised of the application of measures to guarantee the safety of victims and their children, including restraining or protection orders to be complied with, and the legal consequences of non-compliance.

It is also important that perpetrators are counselled and receive help in controlling their violent behaviour, either as a part of their pretrial release or post-conviction sentencing. This is one measure to help prevent future reoffending and victimization.

Organizations specializing in support services for male abusers have been established in many countries. The aim of such groups is to work from the basis of violent behaviour, helping men recognize their responsibility for their violence and the extent of the harm that it causes.

The services offered range from treatment for alcohol and drug dependence and for mental health problems to behavioural problems, anger management, self-control and conflict resolution through dialogue and support groups dealing with male self-esteem and gender awareness.

Police and the courts need to monitor and evaluate the effectiveness of any order designed to protect victims and witnesses. This includes monitoring by the police of the offender's adherence to all the elements of the court order.

H. Privacy and confidentiality

The Model Strategies generally address the need for measures to protect victims through protection of privacy and confidentiality. They encourage Member States to adopt measures necessary to ensuring the safety of victims and their families, to protect them from intimidation and retaliation, and to ensure that risks affecting victim safety are taken into account in decisions regarding the release of perpetrators.

Article 4 of the Code of Conduct for Law Enforcement Officials stipulates that matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise. This might include all details, records, photographs and reports relating to all the victims, witnesses and offenders, including in cases of domestic violence.

Measures need to be in place, at all steps in the criminal justice process, to protect the privacy of women victimized by domestic violence and to ensure the confidentiality of the process, related information and reports. These can include:

- Minimally invasive police investigative techniques to be used that do not invade a woman's privacy unnecessarily (i.e. only information directly relating to the investigation is collected)
- Victims and witnesses to be interviewed in private and away from the public and the perpetrator
- Names, addresses and other identifying information of victims and witnesses not being released to the media without the informed consent of the victim/witness
- Medical examinations of victims being conducted by women medical personnel and done in private
- Evidence from medical examinations where forensic evidence is collected to be kept in strict confidence and only to relate directly to the crime being investigated
- Official reports, including victim and witness statements, to be viewed only by those justice officials directly involved in the case

Measures to protect the privacy and confidentiality of victims and witnesses, including children, are adopted to reduce the trauma experienced and to prevent further victimization that may be experienced should identifying information or facts be publicly revealed.

I. Police accountability and oversight

In an effective system, there are at least six interdependent pillars of oversight and control across the criminal justice system:

- Internal oversight
- Executive control
- Parliamentary oversight
- Judicial review
- Independent bodies
- Civil society oversight⁶⁹

Within these areas, there are various tools and strategies for accountability and oversight of police agencies and personnel. Approaches can and do take the form of internal supervision, policies, proactive monitoring, internal and external complaints procedures, codes of professional conduct, performance reviews, vetting and merit-based selection/promotion, reporting mechanisms, power to investigate allegations of

⁶⁹Organization for Economic Cooperation and Development, *The OECD DAC Handbook on Security Sector Reform (SSR): Supporting Security and Justice* (Paris, 2007), p. 112.

abuse and/or failures, hearings, budget review/approval, enacting laws, visiting/inspecting facilities, subpoena powers, adjudication of cases brought against services and employees, protecting human rights, providing effective remedies, appointing an ombudsman, a police act, setting up a police complaints commission or an office of an inspector-general, public hearings, ensuring proper use of public funds, ensuring an independent media that can expose wrongs and a strong civil society that can lobby for change and provide an alternative view.⁷⁰

As a part of the criminal justice system, police are accountable for their actions and decisions to the community they serve, to the Government and to the individuals whose lives they affect. Police accountability is essential to the ideal of modern, democratic policing.⁷¹ This includes measures to control and direct the activities of the police and to hold police to account.

In many States police are accountable to ombudsmen and human rights commissions, ad hoc parliamentary inquiries, court-appointed monitors and independent complaints authorities, as well as to an increasingly sophisticated set of internal oversight mechanisms. The new accountability mechanisms vary from place to place. In both South Africa and the United Kingdom, permanent national agencies have the power to conduct independent investigations of everything from police killings to civilian complaints of discourtesy.⁷² In some jurisdictions, women's agencies compile and publish annual statistics relating to violence against women and to the responses of police and others involved in the criminal justice system.

Police are accountable for their actions, decisions and policies and for the processes used therein. In cases of domestic violence, this includes decisions on whether or not to arrest and charge offenders, investigative processes, measures adopted to protect women and the provision of victim services. Policies and operational statistics should be open to public scrutiny and comment. Policies and operational procedures relating to domestic violence, are in some States developed in consultation with groups such as women's agencies and legal advocacy agencies. However, many police subcultures are resistant to outside "interference" and controls. Police may obstruct external oversight and governance mechanisms, hide or lie about what they do and how they do it, and may resist efforts to be held accountable for the results of this action.⁷³

There need to be avenues of recourse and supporting structures for persons who feel aggrieved by the actions of the police, including women who are victims of domestic violence and feel inadequately protected by the police. In some States, this

⁷⁰Mark W. LaLonde, *Criminal Justice Reform in Post-Conflict States: a Guide for Practitioners*, United Nations Office on Drugs and Crime, Vienna, forthcoming.

⁷¹David H. Bayley, *Changing the Guard: Developing Democratic Police Abroad*, Studies in Crime and Public Policy (New York, Oxford University Press, 2006).

⁷²Christopher Stone, "Tracing police accountability in theory and practice: from Philadelphia to Abuja and Sao Paulo", *Theoretical Criminology*, vol. II, No. 2 (2007), pp. 245-259.

⁷³Mark W. LaLonde and Darrell W. Kean, *Municipal Police Board Governance in British Columbia*, Canada, British Columbia, Ministry of Public Safety and Solicitor General (Victoria, Justice Institute of British Columbia, Police Academy, 2003).

process is through public complaints bodies or police agency internal investigations units, which are often not as transparent or accountable as external bodies.

Police, as a large, disciplined and armed force, require special approaches to governance, especially in transitional and post-conflict States. Creating effective disciplinary systems within the police should be a first-order priority.⁷⁴ Effective, transparent and fair accountability mechanisms, both internal and external, will help insure police discipline and secure public trust.⁷⁵

⁷⁴David H. Bayley, *Democratizing the Police Abroad: What to Do and How to Do It*, United States Department of Justice, Office of Justice Programs (Washington, D.C., National Institute of Justice, 2001).

⁷⁵William G. O'Neill, *Police Reform in Post-conflict Societies: What We Know and What We Still Need to Know*, Security-Development Nexus Program Policy Paper (New York, International Peace Academy, 2005).



VI. Procedural law

As one approach to domestic violence, some States have adopted a policy of mandatory arrest and charging, where evidence permits. Other States have adopted policies requiring police to conduct an investigation, with thorough documentation and interviews of victims, witnesses and alleged offenders, whenever an incident of domestic violence is reported. Each approach, in their own way, seeks to ensure that measures are in place to protect victims.

In paragraph 7 of the Model Strategies, Member States are urged to review, evaluate and revise their criminal procedure, as appropriate, in order to ensure that:

(a) The police have, with judicial authorization where required by national law, adequate powers to enter premises and conduct arrests in cases of violence against women, including confiscation of weapons;

(b) The primary responsibility for initiating prosecutions lies with prosecution authorities and does not rest with women subjected to violence;

(c) Women subjected to violence have an opportunity to testify in court proceedings equal to that of other witnesses and that measures are available to facilitate such testimony and to protect their privacy;

(d) Rules and principles of defence do not discriminate against women and such defences as honour or provocation do not allow perpetrators of violence against women to escape all criminal responsibility;

(e) Perpetrators who commit acts of violence against women while voluntarily under the influence of alcohol or drugs are not absolved of all criminal or other responsibility;

(f) Evidence of prior acts of violence, abuse, stalking and exploitation by the perpetrator is considered during court proceedings, in accordance with the principles of national criminal law;

(g) Courts, subject to the constitution of their State, have the authority to issue protection and restraining orders in cases of violence against women, including removal of the perpetrator from the domicile, prohibiting further contact with the victim and other affected parties, inside and outside the domicile, and to impose penalties for breaches of these orders;

(h) Measures can be taken when necessary to ensure the safety of victims and their families and to protect them from intimidation and retaliation;

(i) Safety risks are taken into account in decisions concerning non-custodial or quasi-custodial sentences, the granting of bail, conditional release, parole or probation.

Thus, Member States are urged to adopt rules of evidence and procedures that respect the privacy of the victim and to ensure she is treated with courtesy and dignity, and in a manner that does not unduly add to her burden or further victimize her. This includes measures such as the closing of court to the public when she or her children are giving evidence and allowing evidence to be given from behind a screen so that she is not required to directly face the public or the perpetrator. Some States allow evidence in cases involving such unique forms of victimization to be given by video link from another room or by written statement. Some also allow victims to provide an impact statement, upon conviction, for use in considering sentence.

Police, in their own State, need to be aware of, and comply with, laws relating to violence against women. This includes understanding evidentiary requirements, standards for police investigations and reports, legal measures designed to protect victims and defences allowed in law.

Countries with a common law heritage may differentiate firmly between the investigation process and the prosecution process. The police usually conduct the investigation and the prosecutor must then objectively assess whether there is sufficient evidence to prosecute. (This model may also be followed in some civil law countries.) In practice, this division is not strictly followed and in some systems the prosecutor is directly involved in the investigation process, by way of legal advice or otherwise. In such systems, the judiciary must be approached separately to obtain certain types of evidence, which is usually done by means of issuing a warrant. The legality of the manner in which evidence is obtained may be challenged, either prior to or during trial. The prosecution must prove that the evidence was obtained in accordance with the law and that the rights of the accused were not violated. The trial judge must rule on the admissibility of the evidence; if the manner in which evidence was obtained was in violation of the law, that evidence is excluded and cannot be used in determining guilt.

In some States, independent corroborating evidence is required to prove sexual assault/rape, in addition to the statement of the victim. In others, the judge may admonish the jury of the danger of convicting somebody solely on the evidence of the woman. Such practices are not in the best interests of the woman and have been abandoned by some States.

Similarly, in some States, in cases of sexual assault/rape a woman's past sexual history may be used as evidence to discredit her.

Spousal immunity—the doctrine that one spouse cannot be compelled to give evidence against the other—has been used in some States to reason that domestic violence is a private matter. Various jurisdictions have addressed this in law by allowing prosecutors to compel testimony and many others are moving in this direction through case law.⁷⁶

The Model Strategies urge Member States not to allow defences of provocation, self-defence or intoxication to escape all criminal responsibility. In some jurisdictions, none of these are considered a defence, while others may consider intoxication in assessing level of culpability.

⁷⁶International Centre for Criminal Law Reform and Criminal Justice Policy, *Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice: Resource Manual* (Vancouver, 1999), p. 32.



VII. Inter-agency collaboration and support

While much of this *Handbook* has focused on the role of the police, it also acknowledges that they are but one, albeit important, aspect of a larger systemic response to violence against women. To be effective in meeting the needs of victims, offenders and communities, police need to collaborate with prosecution, courts, prisons, health-care and social service providers, NGOs, civil society and local community and religious leaders. All of these can provide support to help victims and ensure their ongoing protection. These actors also have a role to play in helping offenders learn from their actions and successfully reintegrate into the community.

Each actor has a role to play in ensuring the effectiveness of the others, to share information (within approved protocols that address privacy and confidentiality) and to share and coordinate resources in the best interests of all.

One approach to this is to ensure that each linked agency has an internal “champion” who promotes the protection of women and inter-agency collaboration, which in turn is supported by a senior, public policy-level champion.

Another is to create a national or regional clearing house for the collection, analysis and distribution of related data and research. Yet another is to create a regional call centre, available to victims, police and other service providers, that helps disseminate information on policy and protocols, and how best to access local services that support victims and professionals.

To better meet the needs of victims, witnesses and offenders, agencies need to develop cooperation protocols that enable the sharing of information, coordinate efforts and share training opportunities.

GOOD PRACTICE EXAMPLE

In Bosnia and Herzegovina, to help effectively address domestic violence, local authorities in Zenica created their own Domestic Violence Workgroup, which brings together police, schools, the local municipal government, the prosecutor’s office, the courts, social service workers, a women’s safe house, hospitals and others.

GOOD PRACTICE EXAMPLE

Joining Hands against Domestic Violence, a collaborative approach to awareness-raising and preventive action, was launched in South Africa in 2000. The project includes training materials and training workshops for hundreds of facilitators who in turn train prosecutors and other professionals working in the area of domestic violence. The project expanded into Ethiopia in 2006, where, in partnership with the Ethiopian Women Lawyers' Association, training is being developed for police, prosecutors and judges to help educate them on newly expanded provisions of the criminal code relating specifically to domestic violence.^a

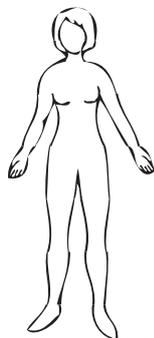
^aAvailable from www.itstimeafrica.org. This project is funded by the Canadian International Development Agency and coordinated through the Sexual Offences and Community Affairs Team of the National Prosecuting Authority of South Africa (www.npa.gov.za), the Ethiopian Women Lawyers' Association (www.etwla.org) and the Justice Education Society (British Columbia, Canada) (www.justiceeducation.ca).

Annex I. Sample injury diagram for investigators medical professionals

Below is a sample of an injury diagram that police investigators and medical personnel can use to describe injuries sustained by women victims of violence. In the case of a rape, or other form of sexual abuse, specialized diagrams may be used that focus on injury to the genitalia.

EXAMPLE OF AN INJURY LOCATION CHART (OR "BODY MAP")

Indicate with an arrow from the description to the body image, where any injury was observed. Indicate the number of injuries of each type in the space provided. Mark and describe all bruises, scratches, lacerations, bite marks and so on.



Encounters:

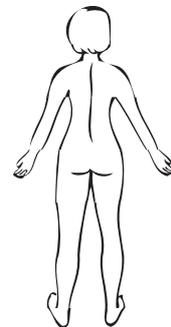
Cuts _____ Punctures _____

Bites _____ Abrasions _____

Bruises _____ Bleeding _____

Burns _____ Dislocations _____

Bone fractures _____



Source: Carole Warshaw, Anne L. Ganley and Patricia R. Salter, *Improving the Health Care Response to Domestic Violence: A Resource Manual for Health Care Providers* (San Francisco, Family Violence Prevention Fund, 1995).

Such a diagram should be accompanied by a more thorough report describing the nature and extent of all the injuries, how they were caused and what weapons, if any, were used and including information concerning the medical professional (ideally a woman) who conducted the examination and observed the injuries. As with all details regarding violence against women, such diagrams are to be considered confidential and are disclosed only to investigators and justice officials directly involved in the case.



Annex II. Online sources and websites

This annex lists additional sources, including guidelines on violence against women by the specialized agencies and other bodies of the United Nations, as also sources for alternate policies, guidelines and safety planning.

A. Online sources

Lise Addario, *Six Degrees from Liberation: Legal Needs of Women in Criminal and Other Matters*, Department of Justice Canada, Legal Aid Research Series (Ottawa, 2002).

Available from www.justice.gc.ca/eng/pi/rs/rep-rap/2003/rr03_la20-rr03_aj20/index.html.

Megan Bastick, Karin Grimm and Rahel Kunz, *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector* (Geneva Centre for the Democratic Control of Armed Forces, 2007).

Available from www.dcaf.ch/publications/kms/details.cfm?Ing=en&id=43991&nav1=4.

Economic and Social Council resolution 2006/29 of 27 July 2006 on crime prevention and criminal justice responses to violence against women and girls.

Available from www.un.org/docs/ecosoc/documents/2006/resolutions/Resolution%202006-29.pdf.

Inter-Agency Standing Committee, *Guidelines for Gender-Based Violence Interventions in Humanitarian Settings: Focusing on Prevention of and Response to Sexual Violence in Emergencies* (Geneva, 2005)

Available from www.humanitarianinfo.org/iasc/pageloader.aspx?page=content-subsubsidi-tf_gender-gbv.

International Centre for Criminal Law Reform and Criminal Justice Policy, *Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice: Resource Manual* (Vancouver, 1999).

Available from www.icclr.law.ubc.ca/Publications/Reports/VAWMANUA.PDF.

Office of the United Nations High Commissioner for Refugees, “Guidelines on international protection: gender-related persecution within the context of article 1 A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees” (HCR/GIP/02/01).

Available from www.unhcr.org/refworld/docid/3d36f1c64.html (accessed 8 October 2009).

Office of the United Nations High Commissioner for Refugees, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response* (2003).

Available from www.unhcr.org/refworld/docid/3edcd0661.html.

Recommended Principles and Guidelines on Human Rights and Human Trafficking: report of the United Nations High Commissioner for Human Rights to the Economic and Social Council (E/2002/68/Add.1).

Available from www1.umn.edu/humanrts/instree/traffickingGuidelinesHCHR.html.

Security Council resolution 1325 (2000) of 31 October 2000.

Available from www.un.org/events/res_1325e.pdf.

United Nations Children's Fund, *Domestic Violence against Women and Girls*, Innocenti Digest No. 6, June 2000.

Available from www.unicef-irc.org/publications/pdf/digest6e.pdf

United Nations Development Programme, "Eight Point Agenda: practical, positive outcomes for girls and women in crisis".

Available from www.undp.org/cpr/we_do/8_pa.shtml.

United Nations Development Programme and United Nations Development Fund for Women, "Gender sensitive police reform in post-conflict societies", Policy Briefing Paper (October 2007).

Available from www.undp.org/cpr/documents/gender/Gender_Sensitive_Police_Reform_Policy_Brief_2007.pdf.

United Nations Office on Drugs and Crime, *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* (New York, 2006).

Available from www.unodc.org/pdf/compendium/compendium_2006.pdf.

United Nations Office on Drugs and Crime *Criminal Justice Assessment Toolkit*.

Available from www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html.

Jeanne Ward and Mendy Marsh, "Sexual violence against women and girls in war and its aftermath: realities, responses, and required resources", briefing paper prepared for the International Symposium on Sexual Violence in Conflict and Beyond, Brussels, 21-23 June 2006.

Available from www.unfpa.org/emergencies/symposium06/docs/finalbrusselsbriefingpaper.pdf.

World Health Organization, *Guidelines for Medico-Legal Care for Victims of Sexual Violence* (Geneva, 2003).

Available from www.who.int/violence_injury_prevention/publications/violence/med_leg_guidelines/en/ (accessed 8 October 2009).

World Health Organization, *Putting Women First: Ethical and Safety Recommendations for Research on Domestic Violence Research* (WHO/FCH/GWH/01.1)(Geneva, 2001).

Available from www.who.int/gender/violence/womenfirtseng.pdf.

World Health Organization, *WHO Ethical and Safety Recommendations for Interviewing Trafficked Women* (Geneva, 2003).

Available from www.who.int/gender/documents/en/final%20recommendations%2023%20oct.pdf.

B. Websites

Danger Assessment

(www.dangerassessment.org/WebApplication1/default.aspx).

Domestic Abuse Intervention Project (Duluth, Minnesota)

Available from www.theduluthmodel.org/domesticabuseintervention.php.

Domestic Violence Handbook (Oakland County, California)

Available from www.domesticviolence.org.

National Coalition Against Domestic Violence
(www.ncadv.org).

Provincial Association of Transition Houses and Services of Saskatchewan, Canada
(www.abusehelplines.org/index.php).

United Nations Human Settlements Programme (UN-Habitat), Safer Cities Programme
(www.unhabitat.org/safercities).

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Vienna International Centre, PO Box 500, 1400 Vienna, Austria
Tel: (+43-1) 26060-0, Fax: (+43-1) 26060-5866, www.unodc.org



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